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WEDNESDAY, JANUARY 3, 2001  
2:40 P.M.



1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, JANUARY 3, 2001

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25 Reported by:

26  
27 Evelyn J. Mizak  
28 Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR ED VINCENT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

CHRIS BURNS, Consultant to SENATOR KNIGHT

TIM SHELLEY, Consultant to SENATOR KARNETTE

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

STEVEN GOURLEY, Director  
Department of Motor Vehicles

BILL CATHER, Legislative Liaison  
Department of Motor Vehicles

TIMOTHY M. FRIES  
California Union of Safety Employees

MEL ASSAGI  
California Trucking Association

IRA J. HOWARD, Chair  
Disabled Advisory Committee  
Department of Motor Vehicles

SENATOR RICHARD POLANCO

PAUL GEROWITZ, Legislative Director  
Protection and Advocacy, Inc.



1 PATRICIA McPARTLAND  
2 Californians for Disability Rights

3 JOE EGAN, Chief Counsel  
4 Department of Rehabilitation

5 HOWARD SCHWARTZ, Chief Counsel  
6 Department of Personnel Administration

7 ASSEMBLYMEMBER DARRELL STEINBERG

8 FRED BUENROSTRO, Chief Deputy Director  
9 Department of Personnel Administration

10 BARRY BROAD  
11 Teamsters

12 CRAIG A. COPELAN  
13 Professional Engineers in California Government

14 STEVE BAKER  
15 California Association of Highway Patrolmen  
16 CDF Firefighters  
17 California Association of Professional Scientists





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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointee, Director,  
Department of Motor Vehicles, Steven Gourley.

Director.

MR. GOURLEY: Thank you, Mr. Chairman, Members of  
the Committee.

I'm Steven Gourley. I'm Director of the  
Department of Motor Vehicles.

I'm both proud and grateful to be entrusted by  
the Governor to this position. It has been my pleasure over the  
last eleven months to work with the dedicated and hard working  
people at the Department of Motor Vehicles.

I would like briefly to share some of the  
accomplishments that we've achieved in the first year, and they  
will be very brief.

We have a highly successful internet registration  
project, I think, of which you're all aware. It is the most  
successful e-business government initiative in the state.

I have implemented a review of contracts and  
contract procedures at the Department. We do between 900 and  
1200 contracts every quarter. This is to save money, make  
money, and to avoid expensive contractual disputes.

We have implemented stringent anti-fraud measures  
to fight identity theft. That has been the subject of a more  
extensive hearing in Long Beach which Senator Karnette was Chair  
of, the Transportation Committee at that time.

I have revised the reasonable accommodation

1 program at the Department of Motor Vehicles so that there is,  
2 indeed, reasonable accommodation for our employees.

3 Finally, I have made every effort to take every  
4 program that we have, that we enforce, and there are many at the  
5 Department of Motor Vehicles, and make those programs pay for  
6 themselves so that there are more monies to expend on behalf of  
7 the citizens of the State of California.

8 In addition, since there have been some questions  
9 about the Department of Motor Vehicles' relationship with the  
10 disability community, I pledge now, here, and have throughout my  
11 administration, to work with the disabled community on all  
12 issues and to be an advocate on their behalf with respect to  
13 issues that are important to them.

14 Thank you.

15 CHAIRMAN BURTON: Senator Johnson.

16 SENATOR JOHNSON: No questions at this time.

17 CHAIRMAN BURTON: Senator Knight.

18 SENATOR KNIGHT: Thank you, Mr. Chairman.

19 Mr. Gourley, you mentioned you work how many  
20 contracts a quarter?

21 MR. GOURLEY: Between 900 and 1200.

22 SENATOR KNIGHT: What kind of contracts and why  
23 that many per quarter?

24 MR. GOURLEY: They're mainly questions of people  
25 who are legally able to obtain information from us, such as  
26 insurance companies. Many of them are the same contract over  
27 and over again, and are required by statute to be, in one way or  
28 another, but have not been reviewed for business purposes since

1 1983.

2 SENATOR KNIGHT: One other question.

3 There's been considerable discussion about  
4 issuance of fraudulent I.D. cards, licenses, et cetera. What  
5 are we doing about that?

6 How can you issue a license to somebody who can't  
7 read English, speak English?

8 MR. GOURLEY: Well, a number of -- I would have  
9 to beg indulgence to talk to my staff -- but we now, according  
10 to the -- boy, and I had it in my notes -- the Dymally-Alatorre  
11 Bilingual Act. We give the test in any number of languages.  
12 You have to forgive me, I do not know the exact number of  
13 languages. And therefore, they are able to take and pass the  
14 test, and we have drive examiners who are able to give tests in  
15 all of those languages.

16 In addition, we have, pursuant to the  
17 Dymally-Alatorre Act, we have signs, and we've worked very  
18 carefully with, I think it's interesting enough, the Mexican  
19 American Legal Education Foundation in San Francisco with  
20 respect to making sure that where the languages are a little bit  
21 more obscure, such as Mandarin, that if we do not give the test  
22 in that language, either drive test or written test at that  
23 site, that we have appropriate signs telling people where they  
24 can take a test in the language which is more comfortable for  
25 them. So, that's how we are able to do that, is that we have  
26 many customers who have many competing needs, and we try to meet  
27 all those customer needs.

28 In terms of cracking down, and I cut this out of



1 my presentation just in order to be a little more quick, we are  
2 working now with the various unions to do pre-employment  
3 screening of all employees so that we know whether any of our  
4 employees have criminal records.

5 We have, since 1999, had new technology at the  
6 Department which allows us to call up, at a terminal within each  
7 office, a picture, your last driver's license picture. So, if  
8 somebody says, "I'm William J. Knight," and doesn't have an  
9 I.D., we can go to that terminal, push a button, and have  
10 William J. Knight's previous driver's license come up, and if  
11 you don't look like him, you don't get it.

12 SENATOR KNIGHT: I've aged a little bit, so the  
13 new one may not.

14 SENATOR JOHNSON: You're better looking than  
15 ever.

16 [Laughter.]

17 MR. GOURLEY: And that's the thing, we'll give  
18 you the option of keeping the old picture.

19 [Laughter.]

20 MR. GOURLEY: As Senator Karnette -- I pointed  
21 out to Senator Karnette at the hearing in Long Beach, I'd like  
22 to keep my old picture because it used to have hair.

23 In addition, we're doing a pilot project with the  
24 Department of Justice to see whether our finger prints are such  
25 that they can be used in a nation-wide data base in order to  
26 track down -- what we'd like to have is a data base that tells  
27 us who you are, who you're not, and whether you've ever applied  
28 under another name before. That not only would stop a lot of

1 fraud, but would deter a lot of people from trying to come in  
2 and pulling the wool over our eyes.

3 We finally, after over eight years of  
4 negotiations with the Social Security Administration, got an  
5 agreement with the Social Security Administration that will  
6 allow us to check Social Security numbers with the Social  
7 Security numbers that are given to us by applicants.

8 And we have, over the last ten years, led the  
9 nation in terms of the number of security features in our  
10 driver's licenses so that it is much more difficult to  
11 counterfeit them.

12 So, those are the kinds of things we're doing. I  
13 could spend, as Senator Karnette knows, about two hours going  
14 into all the things that we're doing On the identity theft issue  
15 and which we hope to do.

16 SENATOR KNIGHT: Well, I think it's important  
17 because we have a tendency to use the driver's license as a  
18 significant piece of identification, to do most anything, for  
19 any kind of a transaction.

20 MR. GOURLEY: Exactly.

21 SENATOR KNIGHT: The first thing you have to do  
22 is pull out your driver's license.

23 MR. GOURLEY: Exactly.

24 SENATOR KNIGHT: If we can't depend on the fact  
25 that it is a real driver's license, and one that identifies you  
26 as an individual and one that you're entitled to, then I think  
27 we as a state are amiss.

28 MR. GOURLEY: I agree with that.



1 I'd just like to point out that we -- my first  
2 week in office, I met with the former Director, Frank Zolan.  
3 And he said there's a bifurcation of the Department between  
4 registration and licensing. These are the two historical issues  
5 of the Department and its jobs.

6 I think we finally have to come to grips with the  
7 fact that there is a third, and now actually more important than  
8 the prior two, and that is the job of identification. So, we  
9 not only are a licenser of people to drive, and some with some  
10 modicum of ability to make sure that they can confidently drive,  
11 we are a register of vehicles and the keeper of titles, but more  
12 importantly, we are now an identifier of human beings. And we  
13 take that job very seriously.

14 CHAIRMAN BURTON: Senator Vincent.

15 SENATOR VINCENT: No questions.

16 CHAIRMAN BURTON: Senator Karnette.

17 SENATOR KARNETTE: No questions.

18 CHAIRMAN BURTON: What's the DMV doing to see  
19 that SB 2084, the truck registration bill, is properly being  
20 implemented.

21 MR. GOURLEY: Is this the IRP bill that we're  
22 talking about?

23 CHAIRMAN BURTON: 2084, yes.

24 MR. GOURLEY: I'm sorry, I don't know by specific  
25 number.

26 CHAIRMAN BURTON: It was the bill that --

27 FROM THE AUDIENCE: Mr. Chair.

28 CHAIRMAN BURTON: Yes. Identify yourself for the

1 record.

2 MR. CATHER: We're doing everything possible. We  
3 have a whole unit that works nothing but on that particular  
4 subject. We're intent on putting into place.

5 Of course, we worked with the industry and with  
6 the Legislature throughout its implementation to make sure that  
7 it did get passed, did have the provisions that it needed in  
8 order to be workable with the rest of the country, and so that  
9 we didn't lose out on federal funding.

10 CHAIRMAN BURTON: How much administrative fees do  
11 you get off the top on the VLF collections?

12 MR. CATHER: I'm afraid I don't know that number,  
13 sir.

14 MR. GOURLEY: If any of my people back there do,  
15 yell out. Twenty-eight dollars off the VLF.

16 CHAIRMAN BURTON: What percent is that? Flat  
17 fee, \$28? Bill.

18 MR. CATHER: Senator, if I may, we got a  
19 reimbursement from the Motor Vehicle License Fee of \$750,710,000  
20 dollar in the current budget year. We collect about \$3 billion  
21 for the local, city, and county governments through the Vehicle  
22 License Fees each year.

23 MR. GOURLEY: Prior to the most recent cut in the  
24 VLF, we collected approximately \$6.5 billion for the entire  
25 state.

26 MR. CATHER: That's all funds and revenues.

27 CHAIRMAN BURTON: Why does it cost you 28 bucks  
28 to do that?

1 MR. CATHER: Senator, if I could clarify.

2 I'm sorry, Bill Cather, Legislative Director for  
3 the Department of Motor Vehicles.

4 The \$28 that was referenced is actually the  
5 Vehicle Registration Fee which all vehicles pay. It goes into  
6 the Motor Vehicle Account.

7 I think Senator Burton was talking about the new  
8 property taxes, which are the vehicle license fees. That's a  
9 separate amount based on the value of the vehicle. That's a  
10 little over three billion that we collect now. Of course, that  
11 is going down as the Legislature has reduced the amount that's  
12 being collected. And of that amount, we get a percentage as a  
13 cost of our collection. It's how much is collected, a  
14 percentage is applied, and that's how much money we get as our  
15 collection costs.

16 CHAIRMAN BURTON: Does it cost you any more to  
17 collect a big check than a small check?

18 MR. GOURLEY: I doubt if it is, but I know that  
19 it evens out. It's very similar to the amount of the fee that  
20 we pay, or that is paid for -- that we charge for the Internet  
21 Registration Project, is that some people pay a higher bank  
22 discount fee and some pay a lower discount fee. In order to  
23 cover it all, we charge four dollars per transaction. So, it  
24 does even out.

25 We are required by statute to collect our costs,  
26 and we do.

27 CHAIRMAN BURTON: Costs plus, or just costs?

28 MR. GOURLEY: Costs.

1 CHAIRMAN BURTON: You don't make money on any of  
2 these?

3 MR. GOURLEY: Unfortunately not. If they would  
4 let me do that --

5 CHAIRMAN BURTON: I don't think you're supposed  
6 to.

7 MR. GOURLEY: Then we're doing it exactly the way  
8 you want, Senator.

9 CHAIRMAN BURTON: Maybe what you might want to do  
10 is have the Director have a meeting with Mr. McClintock and  
11 Mr. Morrow on that issue.

12 Let me get to one that's important to me. It's  
13 the disabled placard. Where are we on that?

14 MR. GOURLEY: Well, the litigation, as you know,  
15 Dare versus Department of Motor Vehicles, is still pending.

16 CHAIRMAN BURTON: It's only pending because you  
17 appealed it.

18 MR. GOURLEY: That's correct.

19 CHAIRMAN BURTON: So, why are you appealing it?  
20 Why don't you just say forget it and get on with life?

21 MR. GOURLEY: My understanding is that the reason  
22 for the appeal was because there was a \$20 million to be repaid  
23 plus attorneys fees, and that the administration was not willing  
24 to do that without further review of the merits of the case.

25 CHAIRMAN BURTON: How about when the judge told  
26 them they lost? The district court ruled they lost, violated  
27 the ADA?

28 It ill behooves the state that passes laws that



1 tell private sector they have to comply with them, and then to  
2 violate something like the Americans with Disabilities Act.

3 Is that your call? Is it the Governor's call?  
4 Is it the Department head or the Agency's call? Who called that  
5 one?

6 MR. GOURLEY: It was called through discussion  
7 between the Agency, the Department, and the Governor's office.

8 CHAIRMAN BURTON: So you're still appealing it.

9 MR. GOURLEY: It's still being appealed. We are  
10 trying to have it mediated. We have made settlement offers to  
11 the Governor's orders. We have not gotten any response to our  
12 last settlement offer.

13 And the settlement offer always includes waiving  
14 the fee and ending the fee forever. And as you know, the fee  
15 hasn't been charged since 1997 pursuant to the court's order.

16 CHAIRMAN BURTON: You support a statutory  
17 limitation of the fee?

18 MR. GOURLEY: I certainly do, yes.

19 CHAIRMAN BURTON: So you're fighting over money  
20 that was illegally taken from these people, and that's what  
21 we're fighting about.

22 MR. GOURLEY: The issue is how much has been  
23 collected, and whether it should be returned to the persons who  
24 paid it.

25 CHAIRMAN BURTON: Didn't the court find that it  
26 was illegally taken?

27 MR. GOURLEY: Yes, it did.

28 CHAIRMAN BURTON: I mean, it's not unlike the

1 Smog Impact Fee. I mean, the state didn't appeal that, and it  
2 was a hell of a lot more money than that. Were you involved in  
3 that one?

4 MR. GOURLEY: No, I wasn't.

5 CHAIRMAN BURTON: Who did that?

6 MR. GOURLEY: DMV was involved. The Governor  
7 made that decision prior to my being appointed.

8 CHAIRMAN BURTON: When did you get appointed?

9 MR. GOURLEY: January 10th. The determination on  
10 the Smog Impact Fee was done sometime in November of 1999.

11 CHAIRMAN BURTON: How much was that?

12 MR. GOURLEY: It came to approximately six  
13 hundred-some-odd million dollars.

14 CHAIRMAN BURTON: This is 20 million?

15 MR. GOURLEY: Yes, sir.

16 CHAIRMAN BURTON: That was from people who  
17 brought cars out of the state. This is from people who are  
18 disabled.

19 MR. GOURLEY: Correct.

20 CHAIRMAN BURTON: Do you see any problem?

21 MR. GOURLEY: Do I see a problem with it? I  
22 certainly see that there's an issue of legality. There's a  
23 question of whether the last appeal was taken; whether the  
24 administration agreed with the court's decision, or whether they  
25 thought that there was a chance to challenge it on its merits.

26 In terms of numbers, you're right. Twenty  
27 million dollars is one-thirtieth of six hundred million dollars.

28 CHAIRMAN BURTON: That money would come out of

1 where? Out of the DMV account?

2 MR. GOURLEY: I think it would, yes. It's  
3 currently being subsidized by the general fund.

4 CHAIRMAN BURTON: What is?

5 MR. GOURLEY: The cost of preparing the placards.

6 CHAIRMAN BURTON: What does it cost to prepare  
7 the placards?

8 MR. GOURLEY: I have the numbers here. The  
9 bottom line is, since 1997, the Department has lost \$11 million  
10 from preparing the placards without charging for them.

11 CHAIRMAN BURTON: That's \$3 million a year,  
12 roughly.

13 MR. GOURLEY: Roughly, yes.

14 CHAIRMAN BURTON: So, you admit you're obeying  
15 the court's order that you shouldn't have done it. You're not  
16 charging them since the court told you not to, but you want to  
17 keep the money that was illegally taken.

18 MR. GOURLEY: I think the need is to find out  
19 final determination from the highest court in the land whether,  
20 in fact, the prior court --

21 CHAIRMAN BURTON: You're going to go all the way  
22 up to the god damn United States Supreme Court for \$20 million  
23 when they gave away \$680 million without a burp? That's what  
24 you're telling me?

25 MR. GOURLEY: I'm afraid that's the truth.

26 CHAIRMAN BURTON: Whose policy is that, yours,  
27 the Agency's, or the Governor's?

28 MR. GOURLEY: It's a combination of all three.



1 CHAIRMAN BURTON: How did you vote in the  
2 meetings?

3 MR. GOURLEY: I did not vote in the meetings.  
4 I'm merely carrying out the policy. And as I've stated both to  
5 disability groups as well as to you and other Members, I'm  
6 perfectly willing to support legislation that goes to repealing  
7 the \$6 fee.

8 CHAIRMAN BURTON: How about legislation that  
9 includes \$20 million to give them back their dough?

10 MR. GOURLEY: I think that would be beyond my  
11 ability to recommend.

12 CHAIRMAN BURTON: I don't think it's beyond mine.  
13 What was the theory in the discussion? I'm  
14 missing something. I mean, they caved in a minute on Smog  
15 Impact Fee, and they're fighting this like they thought it was  
16 the Holy Writ.

17 MR. GOURLEY: I think that the Governor is quite  
18 correct in looking at the Smog Impact Fee and determining that  
19 there was no merit to the State of California's argument that  
20 the State of California legitimately believed in 1990 that it  
21 needed funds, and that the Legislature and the Governor at that  
22 time enacted a law which they knew was of questionable value,  
23 but it needed the money.

24 CHAIRMAN BURTON: You lost at the district. You  
25 lost at the Court of Appeal level. I mean, I'm missing the  
26 point.

27 MR. GOURLEY: I'm sorry. There are issues of  
28 merit relating to the --

1 CHAIRMAN BURTON: What are they?

2 MR. GOURLEY: What it comes down to is this, in  
3 terms of the merits as opposed to any procedural issues, is that  
4 the Department takes the position that -- well, the ADA  
5 prohibits, in general terms, charging any amount for the bare  
6 minimum requirements of complying with the law.

7 The Department takes the position that the bare  
8 minimum of providing accessibility to disabled parking is a  
9 plate, a hard plate that goes on your car like anybody else's  
10 car, and there is no additional charge for having that  
11 disability symbol or emblem on your plate.

12 If you wish to move it from vehicle to vehicle,  
13 then you need a placard. That's something in addition. That is  
14 beyond the bare minimum. Therefore, it is reasonable to charge  
15 the cost.

16 CHAIRMAN BURTON: You mean those little blue  
17 things?

18 MR. GOURLEY: Exactly.

19 CHAIRMAN BURTON: Why don't you make them out of  
20 cardboard?

21 MR. GOURLEY: Exactly.

22 CHAIRMAN BURTON: What do you mean exactly?

23 MR. GOURLEY: Do you want me to go through the  
24 whole procedure?

25 CHAIRMAN BURTON: Yeah. I want to figure out how  
26 expensive it can be to give somebody a piece of cardboard that  
27 basically says -- and you're making, I don't know -- how many  
28 disabled plates are there?

1                   MR. GOURLEY: There are approximately, I believe,  
2 half a million.

3                   CHAIRMAN BURTON: So, half a million, and you do  
4 it so it's a cardboard thing, like a parking thing, instead of  
5 one of those plastic deals. I mean, how can they cost six  
6 bucks? They ought to cost you about 30 cents tops.

7                   MR. GOURLEY: There's the application. There's  
8 the reviewing of the information that's prepared by the doctor.

9                   CHAIRMAN BURTON: The application, you said that  
10 they already have one on their car. When my disabled brother  
11 wants to use my car, you don't want to take the plate off, so he  
12 can put that.

13                   You already know who the hell it is; don't you?

14                   MR. GOURLEY: Most people apply for the placard.  
15 They don't apply for the plate.

16                   CHAIRMAN BURTON: Then it's not costing any more  
17 than it would have cost the other way around. They're paying  
18 the same price for the plate as they did for that, so you're  
19 still beyond me.

20                   You have no god damn justification for doing  
21 that. The only justification you have is your boss, the Agency  
22 head, tells you to do it. That's the only justification you  
23 have.

24                   Who is your Agency head?

25                   MR. GOURLEY: Maria Contreras Sweet.

26                   CHAIRMAN BURTON: Maybe we ought to bring her  
27 back up here and your budget to figure it out. Because that's  
28 the only justification, is someone told you to do it, because

1 there's no justification on the dough, as I look at it. I mean,  
2 there's no way those things can charge that much.

3 Yes, Senator.

4 SENATOR JOHNSON: Question. It's always a  
5 mistake to ask questions you don't know the answer to, but I'm  
6 going to do it anyway.

7 What are the number of disabled plates that are  
8 issued in California, the license plate with the symbol on it?

9 MR. GOURLEY: The actual plates, I do not have  
10 that number. The numbers I have in front of me are that the  
11 original placards are 292,155 in 1999, and the renewals were  
12 841,000 in 1999.

13 The actual plates, I do not have a number.

14 SENATOR JOHNSON: I would think that in trying to  
15 understand the merits of this, that that would be important to  
16 know, because if it is position of the administration that the  
17 granting of the plate is the minimum requirement, sounds like  
18 maybe giving the placard is not something more than, or in  
19 addition to the minimum required, but something less than the  
20 minimum required.

21 Could you address that?

22 MR. GOURLEY: I'm not really sure that I  
23 understand the question.

24 SENATOR JOHNSON: If I understood your answers to  
25 Senator Burton, the position of the administration in appealing  
26 this case is that legally you believe you are required to  
27 provide certain minimum things under the law, but nothing beyond  
28 that minimum. And it's entirely appropriate to charge a fee for



1 something beyond that minimum.

2                   What I'm trying to understand is, what is the  
3 minimum? Is the minimum providing a disabled plate for a  
4 vehicle? And if that is the case, then is the granting of the  
5 placard not something more than the minimum required, but  
6 actually something less than the minimum required? Are the  
7 costs of providing that less?

8                   Am I making myself clear now?

9                   MR. GOURLEY: Yeah, I think I see where you're  
10 going.

11                   The issue is that indeed there is -- that the  
12 plate is provided at no extra charge if it has a disability  
13 symbol on it; that's correct.

14                   The question is that if you want the ability to  
15 take -- transfer that, either transfer that or have one that is  
16 transferable, then you apply for the placard. You apply for the  
17 placard; there's a certain cost involved.

18                   SENATOR JOHNSON: Is it the position that it is  
19 more expensive to process and provide the placard than to  
20 provide, at no cost beyond the normal license plate, a disabled  
21 license plate?

22                   Does it cost more or less to provide the  
23 handicapped or the disabled license plate as opposed to placard?

24                   MR. GOURLEY: I don't think there's a substantial  
25 difference in the cost of the plate. There is a cost of the  
26 processing to get the information to issue the plate. The  
27 placard --

28                   SENATOR JOHNSON: I'm sorry, Mr. Chairman.

1                   How does the processing of the placard differ  
2 from the processing of an application for a plate?

3                   MR. GOURLEY: Substantially it doesn't, but it's  
4 just a different issue of how it's prepared, mailed out, sent  
5 out, coded. You get the plate. You renew it every year.

6                   SENATOR JOHNSON: Final question. I'm just  
7 trying to get a handle on this and how it works.

8                   Someone, a staff person, apparently, from the  
9 Department called out from the audience earlier that there are  
10 far more who apply for the placard than for the plate.

11                  MR. GOURLEY: Correct.

12                  SENATOR JOHNSON: I have to presume that there  
13 are a certain of percentage of people who do both; is that  
14 right?

15                  MR. GOURLEY: Correct.

16                  SENATOR JOHNSON: Do you treat those who apply  
17 for both differently than those who apply for one or the other?

18                  MR. GOURLEY: No.

19                  SENATOR JOHNSON: In other words, if I were to  
20 apply for a disabled plate, that's going to be provided to me.  
21 And the application process is no more than applying for an  
22 ordinary license plate.

23                  MR. GOURLEY: Correct.

24                  SENATOR JOHNSON: If I apply for that plate, no  
25 cost, but I also say I want to have a placard. Then it seems to  
26 me your argument makes some sense, or the position, because then  
27 you're clearly providing something more than the minimum that  
28 the law requires.

1           So, do you treat that person who applies for both  
2 differently than the person who walks in and says, "I just want  
3 the placard, please. I don't want the plate."

4           MR. GOURLEY: No, they are both charged the same.  
5 They would have been both charged the six dollars prior to 1997.

6           CHAIRMAN BURTON: Is there a lawyer here from  
7 DMV?

8           MR. GOURLEY: As to which issue?

9           CHAIRMAN BURTON: Any God damn issue. Just a  
10 lawyer.

11          MR. GOURLEY: I'm a lawyer.

12          CHAIRMAN BURTON: You didn't have the answers.

13          MR. GOURLEY: We're not handling the case. The  
14 case is being handled by the Attorney General.

15          CHAIRMAN BURTON: Is there an issue over and  
16 above the \$20 million that's causing this appeal to the highest  
17 court of the land?

18          MR. GOURLEY: Not that I know of.

19          CHAIRMAN BURTON: Senator Karnette.

20          SENATOR KARNETTE: I had one question.

21          There are temporary placards issued. Is that a  
22 part of this discussion?

23          MR. GOURLEY: No, it's not. It's my  
24 understanding that those were distinguished, and that it was  
25 ruled that those were -- we were allowed to charge the temporary  
26 disabled placards separate and apart from the permanent disabled  
27 placards.

28          SENATOR KARNETTE: Because those people are not



1 permanently disabled.

2 MR. GOURLEY: Correct.

3 SENATOR KARNETTE: Senator Burton, you mentioned  
4 the 20 million.

5 Now that court case, we need to be kept apprised  
6 of that, I would think. Would you be willing to keep us  
7 apprised of what goes on in it?

8 MR. GOURLEY: Oh, certainly. In fact, I can tell  
9 you that the matter is -- the Petition for Certioari, or the  
10 appeal, has been made by the state. As I've explained to  
11 various members of the public and Members of this Committee,  
12 there's a prior case called Garrot versus the State of Alabama,  
13 which has already been heard by the U.S. Supreme Court. And  
14 therefore most likely what comes down Garrot versus Alabama,  
15 which, absent the busyness of the Supreme Court with Florida  
16 over the last weeks, would have been probably issued by now,  
17 will determine this case entirely.

18 CHAIRMAN BURTON: So there is an issue more than  
19 \$20 million. You want to know whether or not the ADA applies to  
20 the state.

21 MR. GOURLEY: That's also an issue.

22 CHAIRMAN BURTON: No, that is the issue. That is  
23 the issue.

24 The state does not want to be held to the  
25 standard that it will hold other private businesses. That is  
26 the issue.

27 The issue isn't \$20 million. The issue is to try  
28 to get out from under the ADA.

1                   One of the things that basically the state could  
2 have done, and we wouldn't be here, and I wouldn't be getting  
3 adjuta, is to drop the appeal that's got nothing to do with  
4 anything but the collecting of the \$20 million, and return the  
5 \$20 million and let somebody else determine at a future date, at  
6 a future issue, whether or not the ADA applies to the state.

7                   And you're there as the guy. I don't know if  
8 your name's going to be the name on the pleading or what.

9                   MR. GOURLEY: I hope not.

10                  CHAIRMAN BURTON: Who is it?

11                  MR. GOURLEY: Hopefully it's just Department of  
12 Motor Vehicles, not me.

13                  CHAIRMAN BURTON: Why? You're not too proud of  
14 what's going on?

15                  MR. GOURLEY: Well, I have enough lawsuits in my  
16 name based upon being Director of the Department of Motor  
17 Vehicles. I don't need any more.

18                  Everybody anytime challenges a revocation of  
19 license based on a drunk driving conviction, it's Joe Smith  
20 versus Gourley.

21                  CHAIRMAN BURTON: Witnesses in support.

22                  MR. GOURLEY: May I make one final statement?

23                  CHAIRMAN BURTON: Surely.

24                  MR. GOURLEY: I received a letter dated December  
25 19th, year 2000, from the Californians for Disability Rights, in  
26 which they list an agenda that they have for working with the  
27 Department and working with the State of the California.

28                  I have spoken to Pat McPartland of that group and

1 have told her, as I represent to this group, that I very much  
2 would like to work with her group, and work with her for  
3 advocating the issues that she has laid forth in that letter.

4 CHAIRMAN BURTON: How about implementing them?

5 MR. GOURLEY: And implementing them.

6 CHAIRMAN BURTON: You're in a position to  
7 implement. They're only in a position of advocating.

8 MR. GOURLEY: Right.

9 CHAIRMAN BURTON: That will be part of the  
10 record.

11 MR. GOURLEY: Thank you.

12 MR. FRIES: Tim Fries with the California Union  
13 of Safety Employees in support.

14 We've already worked with the Director on a  
15 number of different issues. Some of them he's already taken  
16 action on. The identity theft will be a large one that we hope  
17 to work with the Department in the future for.

18 CHAIRMAN BURTON: Thank you.

19 MR. ASSAGAI: Mel Assagai for the California  
20 Trucking Association in support.

21 We think working with the Director will be of  
22 benefit to our efforts to make the highways safer and to move  
23 freight more efficiently.

24 We think working with the Director will help to  
25 create a better highway system and also to move freight more  
26 efficiently.

27 CHAIRMAN BURTON: Thank you, Mel. Next.

28 MR. HOWARD: My name is Ira Jack Howard. I'm

1 here to support Director Gourley, and I have worked with the  
2 Department of Motor Vehicles for eleven-and-a-half years.

3 I've been the Chairperson of DMV's Disabled  
4 Advisory Committee for the last three years of my eight-year  
5 membership.

6 I have read some of the charges being made  
7 against Steven Gourley by people who do not know him, and I  
8 would appreciate the opportunity introduce you to the Steven  
9 Gourley that I know.

10 Steven Gourley attended the Department of Motor  
11 Vehicles' Disabled Advisory Committee meeting in May of 2000.  
12 Steven Gourley asked for the Committee's suggestions regarding  
13 disabled person's placards and the parking privileges. Steven  
14 Gourley asked the Committee to review legislation relating to  
15 people with disabilities and to advise how to improve DMV's  
16 service.

17 Steven Gourley related to the architectural  
18 accommodations necessary for physically restricted individuals  
19 in the workplace. He arranged for me to inspect a newly  
20 remodeled floor in the DMV's east building for accessibility on  
21 June 6 of 2000.

22 Steven Gourley sent DMV's Disabled Advisory  
23 Committee to the Disabled in State Service Conference, and DMV  
24 donated \$2,500 to the conference, which was the highest monetary  
25 donation given by any department.

26 Steven Gourley attended DMV's Disabled Advisory  
27 Committee's award luncheon in October, 2000. He spoke about  
28 workers with physical limitations providing valuable service in



1 the workplace, and he presented the scholarships and awards.

2 I strongly support Steven Gourley's nomination  
3 for Director of the Department of Motor Vehicles because he has  
4 the strength and courage to accept this challenge of leadership,  
5 and the intelligence to reach his objective, along with a  
6 compassionate interest to serve all of the people of California.

7 CHAIRMAN BURTON: Thank you, sir. Questions?  
8 Thank you very much.

9 Senator Polanco.

10 SENATOR POLANCO: Mr. Chairman and Members, thank  
11 you very much.

12 On record, I have had the opportunity prior to  
13 his appointment to meet with Steven. You have in your record a  
14 letter from me in support of the nomination.

15 In my capacity as the Budget Chair, I've had the  
16 opportunity to deal with many of the issues that confront the  
17 Department of Motor Vehicles. This is a person who has had  
18 local experience as well as, I'll bring you some legal  
19 background. He's really out of the box, if you will, in terms  
20 of the kind of history of where he comes from: local  
21 government, legal, not a traditional bureaucrat, if you will.

22 Steven has, as I mentioned, been in my office,  
23 along with other Members, to discuss the issues that are  
24 important to streamlining the issue of registration. I have  
25 been most impressed with his investigations that have occurred  
26 of dealers up and down the state that have taken the opportunity  
27 to exploit, in some instances, families and members who are  
28 interested in purchasing, and being hoodwinked into contracts

1 that they should not have been allowed to enter.

2 I see some strong desire to make government work  
3 for people. And I'm here to support his nomination and ask the  
4 Chairman and the Members of this body to do so.

5 CHAIRMAN BURTON: Would you be supportive of  
6 putting into their budget the \$20 million that they owe the  
7 disabled for the illegal collection of the six dollar fees, as  
8 ruled by the court? Are you familiar with that one, Senator?

9 SENATOR POLANCO: I'm not familiar with it. I'd  
10 be happy to review it.

11 I think if the court ruled that there's a  
12 deficiency there, in my capacity I'd be happy to entertain that  
13 as motion and move it forward.

14 CHAIRMAN BURTON: Thank you very much, Senator.

15 Any questions.

16 Witnesses in opposition.

17 MR. GEROWITZ: Mr. Chair and Members, Paul  
18 Gerowitz, the Legislative Director of Protection and Advocacy,  
19 Incorporated, a private, nonprofit agency advocating for rights  
20 for people with disabilities.

21 We oppose confirmation of Mr. Gourley.

22 I just would like to talk just very briefly about  
23 the legal issues involved in the lawsuit, because I don't think  
24 they were accurately portrayed.

25 The issue on -- the factual issue is whether or  
26 not the placards represent a benefit or an accommodation, as I  
27 understand the cases, the Dare case. And the case held that it  
28 was an accommodation, and that's why the state couldn't charge

1 for it. If it was a benefit, the state could charge for it.

2 I think that's simplistic, but I think that's  
3 basically what the holding was.

4 SENATOR JOHNSON: What's the difference?

5 MR. GEROWITZ: The difference would be that an  
6 accommodation is something that's reasonably necessary to allow  
7 equal access to facilities for a person with a disability.

8 SENATOR JOHNSON: For example, a parking spot.

9 MR. GEROWITZ: A parking spot, a ramp, whatever  
10 might be necessary.

11 SENATOR JOHNSON: And if ordinarily there's a  
12 charge for that, and that charge is waived, wouldn't that be a  
13 benefit?

14 MR. GEROWITZ: Yes, if there was ordinarily a  
15 charge for parking and the parking was waived, I guess you could  
16 make the argument that that would be a benefit..

17 I'm not here to litigate the case. I'm telling  
18 you what my understanding is.

19 SENATOR JOHNSON: I'm just trying to understand.

20 MR. GEROWITZ: Yeah, you could certainly make  
21 that argument that if there was a fee above and beyond, but I  
22 don't think that was the issue.

23 SENATOR JOHNSON: Like quarter in a parking  
24 meter.

25 MR. GEROWITZ: I think the issue was not the  
26 quarters that are or are not paid in parking meters but the six  
27 dollars for the plaque.

28 SENATOR JOHNSON: But if I don't have to pay the



1 quarter because I've got the placard or the plate, does that  
2 meet your definition of a benefit?

3 MR. GEROWITZ: I think you could make the  
4 argument. I can't answer it off the top of my head, and it  
5 wasn't an issue of the lawsuit. The lawsuit wasn't about  
6 whether or not the quarters were benefits.

7 SENATOR JOHNSON: Maybe it should have been.

8 MR. GEROWITZ: Maybe it should have been.

9 Protection and Advocacy would not have a problem  
10 with this confirmation had the appeal to the Writ of Certioari  
11 to the U.S. Supreme Court been based on that issue or that issue  
12 alone.

13 The problem is that the really stronger --  
14 stronger is a bad phrase -- the more dangerous argument being  
15 raised is whether or not the people of California have the right  
16 to sue the state for violations of ADA. And with all the  
17 five-four decisions going on in the U.S. Supreme Court, I think  
18 that that's the reason that appeal was taken, was because it's a  
19 roll of the dice, could win, save 20 million here, and save ever  
20 having to be sued again in any other case.

21 The Garrot case is completely different  
22 factually. The only issue that this case has in common with the  
23 Garrot case is the 11th Amendment argument that you can't sue  
24 the state under the ADA. That's the Alabama case that was  
25 mentioned by Mr. Gourley as possibly being dispositive of this  
26 case.

27 I think that proves that that's really what  
28 they're after, not --

1 CHAIRMAN BURTON: But there's already case on  
2 that issue.

3 MR. GEROWITZ: We're waiting to see how that will  
4 be decided.

5 CHAIRMAN BURTON: I understand that, but if the  
6 danger of this case is the 11th Amendment, that they can't sue  
7 the state, and you've got a case before the Supremes on that  
8 issue, it's bad for us to put ourselves in that situation.

9 Except I think it's an ignoble act, where is the  
10 danger if they're going to decide whether or not states can be  
11 sued under the ADA?

12 MR. GEROWITZ: Because the issue there is a  
13 medical discrimination issue, and it's possible that it won't be  
14 dispositive, that the ruling of the U.S. Supreme Court could be  
15 narrow enough that it would not apply to this type of  
16 accommodation.

17 CHAIRMAN BURTON: What I really don't understand  
18 is how the hell they're charging six bucks for something they  
19 could make for about thirteen cents myself.

20 MR. GEROWITZ: I wondered the same thing.

21 In any event, Protection and Advocacy is opposed  
22 to confirming Mr. Gourley unless and until the appeal is  
23 dropped, the Writ of Certioari is withdrawn.

24 CHAIRMAN BURTON: It seems clear to me that he's  
25 not the guy calling the shots up, down or sideways. I mean,  
26 he's down here. He's got the Agency head here and the  
27 appointing power there. So, I mean, if he wanted to drop, he  
28 couldn't drop it. He could probably go back to being Mayor of

1 Culver City as a matter of principle, but I don't think -- he's  
2 not the guy in control of the lawsuit, clearly, for what it's  
3 worth.

4 MR. GEROWITZ: I'm not sure what other avenue  
5 there is open to the community.

6 CHAIRMAN BURTON: I understand that. That's two  
7 of us.

8 MR. GEROWITZ: Thank you for your time.

9 CHAIRMAN BURTON: Next, please.

10 MS. McPARTLAND: I'm Pat McPartland. I'm with  
11 the Californians for Disability Rights.

12 We are -- I'm speaking in opposition to  
13 Mr. Gourley. I had kind of hoped to withdraw my opposition  
14 after his statements, and I'm a little bit confused now as to  
15 where we really stand with that.

16 We're very concerned about the Dare case, the  
17 case that we've been discussing before the Supreme Court. It  
18 threatens our rights under the ADA, and we're very anxious to  
19 have it withdrawn as soon as possible. We opposed Mr. Gourley's  
20 appointment last summer based on this.

21 The events that have occurred since last summer  
22 have suggested to us that he's not really the person that is  
23 blocking it. It seems to be an impasse between the Attorney  
24 General's Office and the attorneys for Dare.

25 But Mr. Gourley's obviously in very much of a  
26 position to help us, has a lot of influence in how it comes out.  
27 And we would like to see him advocating and articulating our  
28 position for the Governor.

1           There's a couple of things that have come up in  
2 the discussion so far today that I'd just like to address to  
3 provide you with the prospective of the disability community on  
4 how these placards are actually used, and the effect that they  
5 have.

6           The issue has come up as to whether or not having  
7 the placard is an optional thing. It's been asserted that you  
8 can have access just by getting a plate, having the license  
9 plate on your car, and that in fact the placards are an  
10 additional benefit.

11           I'd just like to say, from the perspective of a  
12 user, that as a practical matter, the placards are not at all  
13 optional, and that if you want to have access to the parking,  
14 you need to have a placard. You can have a plate on your car,  
15 but if you ever ride in the car of another person, you need to  
16 have that placard.

17           This is often in my life. I have a boyfriend.  
18 He has a van that has a lift on it so I can use it, but he's not  
19 disabled, so he cannot have the plates. If I ride with him  
20 which I often do, I have to have that placard. It's not an  
21 option.

22           That's the case of a lot of people. Many people  
23 with disabilities can't afford their own cars. They always ride  
24 with other people, and they have to have that placard.

25           It's also true if you're traveling and using a  
26 rental car. When you're in another location other than your own  
27 private vehicle, you have to have that placard.

28           So, as a practical matter, you can't get by with



1 just the plates and be able to use the accessible parking.

2           The other thing I wanted to point out is,  
3 Mr. Johnson, you raised the issue of the quarters in the meter.  
4 I wanted to just point out that under the law, people with  
5 disabilities do not have to put quarters in the meter. The  
6 reason for that is not the savings of the money. It's because  
7 for myself and many other people with disabilities, we cannot  
8 physically access the place where the quarters go, and also  
9 would have extreme difficulty, after an hour or whatever,  
10 returning to add money to the meter. That's why that was put  
11 into the law, not to save the money.

12           SENATOR JOHNSON: What about a publicly owned  
13 garage, parking structure, state parking structure? Do you pay  
14 when you exit that parking structure?

15           MS. McPARTLAND: I'm in a state parking structure  
16 right now. It's 75 cents for half an hour. I pay it. It's not  
17 free. It's not waived.

18           SENATOR JOHNSON: I'm asking a question, looking  
19 for an answer.

20           MS. McPARTLAND: Right. Yeah, I pay. I pay the  
21 parking fee. I believe that that is typical. I haven't  
22 encountered situations where the fee is waived.

23           To get back to what --

24           CHAIRMAN BURTON: Can you do me a favor?

25           MS. McPARTLAND: Sure.

26           CHAIRMAN BURTON: You came in here, at least what  
27 I thought I heard you say, as kind of inclined, maybe, to go  
28 along, take a duck, or whatever. Then the testimony you heard



1 raised some concerns.

2 Would you mind sharing with us what transpired  
3 during the testimony that sort of caused --

4 MS. MCPARTLAND: We had written a letter which  
5 Mr. Gourley referred to on December 19th, and we asked for  
6 several things in the letter. And I can recount those for you,  
7 what they are.

8 But Mr. Gourley had indicated to me that he could  
9 support all of those things. But I didn't really hear that in  
10 his testimony. So, that's why I'm hesitant.

11 Then there were some issues raised about the \$20  
12 million. What we had asked in the letter was that a fund be  
13 created that would be in DMV where the \$20 million would be  
14 placed, and that that would be an interest-earning fund, and  
15 that the money that was earned from that would be given as  
16 grants to local governments and to community organizations for  
17 programs and services that would benefit drivers with  
18 disabilities.

19 CHAIRMAN BURTON: You weren't looking for the six  
20 dollar rebate?

21 MS. MCPARTLAND: We feel like sending out  
22 millions of small checks is not really of benefit to anybody.

23 CHAIRMAN BURTON: Don't let Senator McClintock  
24 hear you say that.

25 [Laughter.]

26 CHAIRMAN BURTON: So, basically your thought is,  
27 to take that money, put it in an interest bearing account, leave  
28 the principle there. And as interest develops, grants to the

1 locals?

2 MS. McPARTLAND: That was our idea, yeah.

3 CHAIRMAN BURTON: That seems fairly easy.

4 MS. McPARTLAND: And we would like to see  
5 Mr. Gourley pushing for that idea with the Governor's office as  
6 a point in the settlement.

7 I don't know what the sticking points are in the  
8 settlement, so I don't even know if that would help. But that  
9 was our -- that was what we had asked of him.

10 The other thing was concerning a piece of  
11 legislation that my organization is planning to get introduced,  
12 if everything goes the way we hope in the next few weeks. And  
13 what that would do is, it would plug some gaps in the state law  
14 so that, regardless what happens at the Supreme Court level,  
15 people with disabilities in California would still have the full  
16 protections that they now have under the ADA. And those gaps  
17 are in the area of program access and in the area of judicial  
18 remedies.

19 CHAIRMAN BURTON: That's not his deal; that's  
20 our deal.

21 MS. McPARTLAND: Right. What we're looking for  
22 him to do is to support the idea.

23 CHAIRMAN BURTON: With all respect, he wouldn't  
24 even be relevant to it on that part.

25 I think on supporting the concept of the 20  
26 million in the fund, it would be good to have his support, but I  
27 think we could get that in the budget in any event. And whether  
28 he supported it or not, the Governor will leave it in or take it

1 out, depending on his viewpoint.

2 But I believe that you should, and I see the  
3 Chair of the Assembly Committee on Judiciary here, but if you  
4 should have proposals to protect the rights of disabled  
5 Californians, in the event that the court rules the way that it  
6 may well rule, that it would be great if we did that  
7 independently of the 20 million for the whatever.

8 With respect to the Director of DMV, he could be  
9 for it or against it, and it ain't going to get a vote or lose a  
10 vote, if you follow what I'm saying?

11 MS. MCPARTLAND: With all due respect, there were  
12 some concerns raised about this bill that -- as far as the  
13 administration opposing it, and I guess there were some vetoes  
14 last year.

15 CHAIRMAN BURTON: I understand that. All I'm  
16 saying is, he could be for it and it could get vetoed. He could  
17 be against it; it could get signed.

18 MS. MCPARTLAND: Yeah, and all we're really  
19 asking him to do is to advocate for us with the Governor. I  
20 mean, I know ultimately the Governor makes these decisions.

21 And the other point in the bill, the other point  
22 in the legislation, is to remove from the law the provision that  
23 allows DMV to charge the six dollars. We want to just get that  
24 out of the law so there's no longer a conflict between  
25 California law and the ADA as far as the charging of these fees.

26 And like I said, if I understood Mr. Gourley  
27 privately, he indicated to me he could support all these  
28 things. I'm just not sure I heard that in his testimony.

1                   CHAIRMAN BURTON: He'll have a chance to respond  
2 to that as he closes. He may not just may not have addressed it  
3 as fully as you would have liked. So, he can have a chance to  
4 speak to that.

5                   The bottom line, unfortunately, both in this case  
6 and in the laws, he's got a point of view, but when it's all  
7 over, that's all he's got is a point of view. He's not the one  
8 calling the shots.

9                   Again, speaking for myself and many Members at  
10 least that I know in the Senate, we would clearly push for the  
11 type of legislation you're talking about.

12                  MS. MCPARTLAND: Thank you. I appreciate that.

13                  CHAIRMAN BURTON: Could we solve the energy  
14 problem as easy?

15                  Any other comments?

16                  MS. MCPARTLAND: That's it. Thank you very much.

17                  CHAIRMAN BURTON: Other witnesses in opposition?

18                  Mr. Gourley, do you want to respond?

19                  MR. GOURLEY: Yes, and I thought I had said it  
20 very clearly.

21                  CHAIRMAN BURTON: It may have just got lost, I  
22 think.

23                  MR. GOURLEY: Is that I can definitely be the  
24 advocate for the disability community with respect to all the  
25 issues that they've raised in their letter of December 19th.

26                  Pat, I would be happy to work with you and any  
27 other members of the disability community who to wish work on  
28 those issues with me.



1                   In fact, when I met with Pat and her group, was  
2 it May or June? In that area. They asked me to carry messages  
3 to the Governor's office with respect to concerns that they had,  
4 and indeed I did that.

5                   CHAIRMAN BURTON: How were they received?

6                   MR. GOURLEY: Well.

7                   CHAIRMAN BURTON: Can you tell me what happened?  
8 We tried to find out from Catherine Campisi, but the Governor  
9 instructed the lawyers to enter settlement discussions, and it's  
10 his intention to order an end to the appeal.

11                   Do you know what happened?

12                   MR. GOURLEY: Yes.

13                   CHAIRMAN BURTON: What?

14                   MR. GOURLEY: There's Chief Counsel for the  
15 Department of Rehabilitation here. He's been following these.

16                   CHAIRMAN BURTON: Where is he.

17                   MR. GOURLEY: He probably can give you a better  
18 summary than I can.

19                   CHAIRMAN BURTON: Fine.

20                   MR. EGAN: Good afternoon, Mr. Chairman and  
21 Members of the Committee. I'm Joe Egan, Chief Counsel for the  
22 Department of Rehabilitation.

23                   The Department of Motor Vehicles did make an  
24 offer of settlement shortly after the Governor directed that  
25 that be done.

26                   CHAIRMAN BURTON: Which was what?

27                   MR. EGAN: Which was to maintain or to agree to  
28 the continuation of the injunction that was issued by the



1 district court, to discuss -- enter into discussions with regard  
2 to the payment of attorneys' fees, and notice to members of the  
3 class.

4                   There was not a favorable response to that  
5 proposal.

6                   CHAIRMAN BURTON: How about the thing that they  
7 just said, that they ain't even looking for the money? Take the  
8 20 million, put it in an interest bearing fund and use the money  
9 for the furtherance of Californians with disabilities driving.

10                  MR. EGAN: I think the Department of Motor  
11 Vehicles has indicated that they actually requested to meet with  
12 the plaintiffs to discuss all issues, including some  
13 compensation to the class, or alternatively --

14                  CHAIRMAN BURTON: I just asked specific question.

15                  MR. EGAN: They're willing to discuss that, and  
16 they've specifically stated that.

17                  CHAIRMAN BURTON: What the hell's wrong with it?

18                  MR. EGAN: I'm not sure. I don't think there's  
19 anything wrong with it. I think that the Department has said  
20 they're willing to discuss it. I think it's probably the  
21 preferable alternative.

22                  CHAIRMAN BURTON: I would think from your  
23 standpoint.

24                  Now, they discuss it, but who is calling the  
25 shots?

26                  MR. EGAN: I think I would defer to Director  
27 Gourley on that.

28                  But again, the plaintiffs have not been willing

1 to meet to discuss the issue unless the Department of Motor  
2 Vehicles first, as a precondition to any discussion, agrees to  
3 return of the \$20 million. That's really not a position, I  
4 don't think, that anybody would go into negotiations agreeing to  
5 that issue before you even have a chance to discuss it.

6 CHAIRMAN BURTON: What the hell else is there to  
7 discuss?

8 MR. EGAN: I think that there are options in  
9 terms of the amount they would be returned, or the way, if there  
10 is an amount that's going to be discussed, how it would be used.

11 CHAIRMAN BURTON: You just heard somebody make  
12 what I thought was a fairly easy suggestion to accept. You're  
13 keeping the money; they're getting the interest, and it's going  
14 to something that makes sense for traffic safety, among other  
15 things.

16 MR. EGAN: I think that as I understand it, I  
17 think the Department would be more than willing to discuss that  
18 issue. But at this point, that's not something that the  
19 plaintiffs have been willing to sit down and discuss.

20 CHAIRMAN BURTON: It just kind of floated out  
21 here; didn't it?

22 MR. EGAN: Again, it's something that I think has  
23 always been on the table from the perspective of DMV, and we  
24 encourage --

25 CHAIRMAN BURTON: Did you guys raise that issue,  
26 here's what we'll do?

27 MR. EGAN: It hasn't been specifically proposed.  
28 They've repeatedly stated their willingness to sit down and

1 discuss all issues.

2 CHAIRMAN BURTON: All right.

3 Let me tell you something, and I know that the  
4 Chairman of Subcommittee Four that deals with DMV's budget came  
5 in in support, but if something doesn't happen on this issue,  
6 except for Bill Cather, of course, your budget's in real bad  
7 shape. Did I say that right?

8 But we're very serious about this. We would have  
9 had this hearing earlier, and may well have just put it off and  
10 let the administration stew, except for the fact we got this  
11 statement from the Governor saying that they wanted to drop the  
12 appeal. And lo and behold, it goes from the district court to  
13 the circuit court. You lost there, and then want to go up to  
14 the Supremes, you know, hoping that the Renquist Court will find  
15 out that states aren't liable under is the Disability Act.

16 But I'm telling you, if this thing is not worked  
17 out to the satisfaction of these groups, you can be the Director  
18 of a department with the smallest budget since before the war.  
19 I'm very serious about that, because I'm not impressed with  
20 what's happened here today. You know, I think that I can  
21 understand. You get into, we won't enter into discussions  
22 unless this, that, and the other thing. That's kind of why wars  
23 go on forever, people argue about stupid stuff.

24 Basically, they have made, and I don't know if it  
25 can be an official offer and I don't know what her capacity is,  
26 but basically that ought to be easiest thing that any  
27 bureaucracy ever did, is just have money and give somebody the  
28 interest, as opposed to returning it.



1                   Who's in negotiation, you? Lockyer's office?

2                   Who?

3                   MR. EGAN: The Attorney General's office.

4                   CHAIRMAN BURTON: What do you do?

5                   MR. EGAN: Sir, I'm the chief Counsel for the  
6 Department of Rehabilitation.

7                   CHAIRMAN BURTON: I know that, but what's your  
8 role?

9                   MR. EGAN: Basically, we've been consulting with  
10 the Department of Motor Vehicles and trying to see if we can  
11 broker some sort of good faith negotiation.

12                   CHAIRMAN BURTON: Where is Gerowitz? Paul, come  
13 up here for a minute.

14                   I don't know if you were there when the  
15 suggestion was made that one of the things, instead of trying to  
16 figure out who gets \$3.75, was to take total amount of money,  
17 put it into an interest bearing account, and use the interest to  
18 be making grants to local government, et cetera, on things for  
19 programs for drivers with disabilities. And we aren't going to  
20 negotiate that now, but we're trying to gets this thing off of  
21 dead center.

22                   That seemed to be something that, in my judgment,  
23 the state would have hard time arguing against. Were you ever  
24 aware of that?

25                   MR. GEROWITZ: I heard about that. Would that  
26 result in the writ being withdrawn? Would that be a condition?

27                   MR. EGAN: Yes.

28                   CHAIRMAN BURTON: Yes.

1 MR. GEROWITZ: Because I think that's where we  
2 are.

3 CHAIRMAN BURTON: Yeah, yeah, yeah.

4 MR. GEROWITZ: Then we would be fine with that.

5 CHAIRMAN BURTON: Why don't you enter into  
6 negotiations. Get to him, you get to Lockyer and figure out  
7 what they can do; okay.

8 I mean, obviously, yeah, because otherwise, you  
9 got nothing. You're not gaining anything. You have nothing to  
10 lose, and we will push forward on the legislation in any event.

11 MR. GEROWITZ: Okay, thank you.

12 CHAIRMAN BURTON: Any other questions?

13 All right. Based on those assurances, and I  
14 might add, threats, we will call the roll on the nomination.

15 SECRETARY WEBB: You're making the motion.

16 CHAIRMAN BURTON: Yes.

17 SECRETARY WEBB: Senator Karnette.

18 SENATOR KARNETTE: Aye.

19 SECRETARY WEBB: Kanette Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Vincent.

22 SENATOR VINCENT: Aye.

23 SECRETARY WEBB: Vincent Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Five to zero.

28 CHAIRMAN BURTON: I'm sorry, you got family here



1 going through this ordeal?

2 MR. GOURLEY: No, I don't.

3 CHAIRMAN BURTON: Good for you.

4 MR. GOURLEY: If I may, I wanted to explain that  
5 my wife taking care of her 82-year-old mother who's been  
6 admitted to intensive care at St. John's Hospital in Santa  
7 Monica, so she couldn't be here. But I also said she might not  
8 want to see me get beat up, and so I said stay home.

9 CHAIRMAN BURTON: I had no idea it was going to  
10 turn to this. I thought all things were worked out.

11 MR. GOURLEY: Thank you. Thank you all.

12 CHAIRMAN BURTON: Thank you, sir.

13 Howard Schwartz.

14 Darrell.

15 ASSEMBLYMAN STEINBERG: Thank you, Mr. Chairman  
16 and Members of the Committee.

17 It's my honor and pleasure to introduce to  
18 you, and to recommend for confirmation, Howard Schwartz as Chief  
19 Counsel of the Department of Personnel Administration.

20 I've known Howard since I was 25 years old, a lot  
21 younger.

22 SENATOR JOHNSON: How old are you now?

23 ASSEMBLYMAN STEINBERG: I'm not going to say.

24 I've known him for 16 years, I'll say that.

25 Actually, when I first moved to Sacramento, I was  
26 hired by the California State Employees Association six months  
27 after Howard was hired. We worked together in that legal office  
28 for about 10 years. I wanted to take the time to come on

1 Howard's path here today, because I cannot think of a better  
2 choice to lead the legal department at the DPA than Howard.

3 As I was coming up the ranks as a young lawyer,  
4 the best way I can describe it is, Howard was my go-to guy.  
5 He's the guy I would go to whenever I had questions or advice  
6 about how to handle sometimes very complicated problems.

7 And if you remember during 1980s and early '90s,  
8 we went through some very turbulent times when it came to labor  
9 relations between the administrations and the respective unions.

10 Howard is calm. He's intelligent. He's  
11 respectful, and he understands all sides of a problem. He's  
12 worked on the union side, and so he understands, I think, how to  
13 avoid unnecessary confrontation and to make sure that the seas  
14 remain as peaceful as possible when it comes to collective  
15 bargaining and the implementation of collective bargaining  
16 agreements.

17 So, I wanted to just take the time to introduce a  
18 very fine appointee and a good friend, and urge his  
19 confirmation.

20 Thank you.

21 CHAIRMAN BURTON: Thank you.

22 We have your statement. That's part of the  
23 record. So, if you just want to make some short comments, I'm  
24 sure there may be a few questions.

25 MR. SCHWARTZ: Well, I just want to thank  
26 Assemblyman Steinberg. Darrell and I, as he stated, have been  
27 friends for 16 years. He's a wonderful Assemblyman, and I  
28 appreciate him showing up, taking the time today to come and

1 introduce me.

2                   You do have my statement and my biography. It's  
3 been supplied to you in advance of the hearing.

4                   Very briefly, without reiterating it, I've been  
5 practicing law since 1982. I started my career in state service  
6 with the Public Employment Relations Board. I spent about a  
7 year in private practice, and then from there I spent 15 years  
8 as a staff and managing attorney with the California State  
9 Employees Association.

10                   When I heard of the opportunity to come to the  
11 Department of Personnel Administration as its Chief Counsel, I  
12 was very excited. I talked with the Director, Marty  
13 Morgenstern, and immediately realized that it was a wonderful  
14 opportunity.

15                   So, I realize that after now spending time at  
16 DPA, that I've grown to really appreciate the complexities of  
17 collective bargaining in state service. I think that we've done  
18 a lot to calm the labor relations seas, and to establish strong  
19 and firm relationships with employee organizations, and to make  
20 sure that state government operates economically and  
21 efficiently.

22                   So, I appreciate the opportunity that Director  
23 Morgenstern has given me. I certainly appreciate the  
24 opportunity that the Governor has given me by making the  
25 appointment, and I'm happy to answer any questions you might  
26 have.

27                   CHAIRMAN BURTON: What's the status of the  
28 current negotiations between the employee unions and Cal PERS,



1 and the health care rates?

2 MR. SCHWARTZ: Yeah. We have proposed a -- made  
3 a proposal to all of the 21 state bargaining units, ten of which  
4 have accepted the proposal, which is to pick up 50 percent of  
5 the premium increases that are scheduled to go into effect for  
6 health benefits on January 1st.

7 The ten organizations that have agreed to the  
8 proposal are, if I can think of them, two, five, six, seven --  
9 these are all state bargaining units -- two, five, six, seven,  
10 eight, twelve, thirteen, sixteen, eighteen and nineteen. I  
11 think that's all ten of them.

12 All nine of the state bargaining units  
13 represented by CSEA have not yet agreed to the proposal.

14 CHAIRMAN BURTON: What's the hangup?

15 MR. SCHWARTZ: I believe that they would like  
16 more the employer to pick up more of the health premium  
17 increases. We, again, have proposed a 50 percent pick up, and  
18 they are proposing more than that.

19 CHAIRMAN BURTON: The ones that are left out, are  
20 they big groups or little groups?

21 MR. SCHWARTZ: They're relatively large groups.  
22 CSEA represents two of the largest state bargaining units:  
23 Bargaining Unit One, which is the professional white-collar  
24 state employees, Bargaining Unit Four. Together, those two --  
25 Unit Four is clerical employees. Together, that comprises  
26 probably over 50,000 state employees.

27 CHAIRMAN BURTON: What do you do? You pick off  
28 the small groups, and then that puts pressure on big groups, or

1 what?

2 MR. SCHWARTZ: I think each group has  
3 independently evaluated our proposal and decided on its own  
4 whether they think it's good or bad.

5 CHAIRMAN BURTON: How does group one, three,  
6 seven, nine, fifteen, and forty-six, they have to pay 50 percent  
7 of the increase, and groups thirteen, seventeen, and  
8 twenty-eight only have to pay 40 percent. How the hell would  
9 that work out?

10 MR. SCHWARTZ: I'm not certain. The proposal  
11 that's been agreed upon by the ten units that have agreed upon  
12 it is for the employer to pick up 50 percent.

13 CHAIRMAN BURTON: Right, so the employee picks up  
14 50?

15 MR. SCHWARTZ: Right, the employee picks up the  
16 other 50.

17 CHAIRMAN BURTON: So, where does that leave the  
18 groups that haven't done it?

19 MR. SCHWARTZ: It's a bad situation because the  
20 employees will pick up 100 percent of the increase without an  
21 agreement. The employees in those units will pick up 100  
22 percent of the increase without an agreement.

23 CHAIRMAN BURTON: So it's 50 percent, take it or  
24 leave it, or what?

25 MR. SCHWARTZ: Well, it's our proposal --

26 CHAIRMAN BURTON: I know it's your proposal.  
27 That's not my question.

28 MR. SCHWARTZ: Yes, at the moment that's our



1 proposal, and we haven't modified it in any way.

2 CHAIRMAN BURTON: Senator Karnette.

3 SENATOR KARNETTE: Have you got any other  
4 proposals? There are other ways to handle things other than  
5 just paying.

6 MR. SCHWARTZ: Right. Another component of the  
7 proposal is to establish, which we've already engaged in, a  
8 joint Labor Management Cost Containment Committee which will be  
9 comprised of both management representatives and labor  
10 representatives. They are -- those units that want to  
11 participate in the joint Labor Management Committee, they'll be  
12 having their first meeting next week. I think the goal of the  
13 committee is to come up with proposals jointly that we can bring  
14 to Cal PERS that will both maintain existing level of benefits,  
15 maintain cost containment for health premiums, and take into  
16 consideration the costs that are passed on to employees as well.

17 So, we're trying to work hand-in-glove with the  
18 employee organizations to develop proposals to go before Cal  
19 PERS to limit costs and to maintain benefit levels.

20 CHAIRMAN BURTON: It seems to me you've got how  
21 many bargaining units, 21?

22 MR. SCHWARTZ: Twenty-one state bargaining units.

23 CHAIRMAN BURTON: If you cut a deal one  
24 bargaining unit at 50 percent, everybody else has got to follow  
25 or they pay 100 percent?

26 MR. SCHWARTZ: Correct.

27 CHAIRMAN BURTON: Seems like not a good way to do  
28 business for employee morale.

1 MR. SCHWARTZ: We think that it's a very good  
2 offer, and I can explain why.

3 CHAIRMAN BURTON: Whatever the offer is, you pick  
4 off one bargaining unit, and everybody else is stuck with  
5 whatever maybe the weakest bargaining unit did, or --

6 SENATOR JOHNSON: Get one Indian tribe to sign.

7 CHAIRMAN BURTON: Exactly.

8 MR. SCHWARTZ: Senator, in a broader sense, it's  
9 the dynamic of collective bargaining in state service. There's  
10 always going to be one bargaining unit that agrees to whatever  
11 you're proposing, whatever the state is proposing first.

12 CHAIRMAN BURTON: And that can drive the engine,  
13 even though it's the smallest bargaining unit in the state?

14 MR. SCHWARTZ: It has an impact on all the other  
15 organizations that have yet to come to an agreement.

16 CHAIRMAN BURTON: I don't know if you guys are  
17 the guys that do it or what, but basically there's problems,  
18 sometime, recruiting personnel in high urban cost areas.  
19 There's a problem getting personnel, probably, in part of  
20 Senator Knight's district if they're way out in the boonies.

21 What do you do? Do you do like price  
22 differentials?

23 MR. SCHWARTZ: The conventional solution are  
24 recruitment and retention differentials, which we have  
25 negotiated in many different units, depending upon the  
26 classification of employee and the labor market demand.

27 CHAIRMAN BURTON: What are you doing about the  
28 tremendous shortage of medical personnel in the prison system?

1 MR. SCHWARTZ: To my knowledge, there are  
2 negotiated recruitment and retention differentials for nurses  
3 and related medical personnel in the Department of Corrections.

4 It's a problem that we acknowledge, though. It  
5 doesn't entirely solve recruitment and retention problems by  
6 just giving them a bonus or a differential.

7 We are in the process now of preparing for a new  
8 round of negotiations, and we'll be evaluating all the medical  
9 personnel classifications to determine whether there are  
10 additional differentials that need to be assigned to those  
11 classifications.

12 I think just throwing money at the problem isn't  
13 the only solution. In state service, it's a difficult problem  
14 because it's not -- the problem of attracting qualified  
15 employees isn't just a matter of paying them high salaries or  
16 benefits. They work in very, very difficult and dangerous  
17 environments. Sometimes they work in remote and, I hope not to  
18 offend anybody, unattractive districts in areas throughout state  
19 service.

20 SENATOR JOHNSON: Just as long as you don't  
21 include my district.

22 [Laughter.]

23 SENATOR KNIGHT: Did I miss something?

24 CHAIRMAN BURTON: You had your chance to secede  
25 and form your own county, and it didn't work.

26 MR. SCHWARTZ: Keeping good and qualified  
27 employees isn't just a matter of paying them high wages or  
28 providing them good benefits. It's a matter of making their



1 working conditions better.

2 CHAIRMAN BURTON: Questions, Senator Johnson?

3 SENATOR JOHNSON: No questions.

4 SENATOR KNIGHT: I wish you'd say, portions of  
5 the district.

6 CHAIRMAN BURTON: That was your question?

7 SENATOR KNIGHT: No, I've got another question.

8 It appears as though the Employment Retirement  
9 System, the Board just recently took action to increase the per  
10 diem for certain Board members \$100 to \$400.

11 Are you supporting that?

12 MR. SCHWARTZ: I can't tell you what our position  
13 is on that. I don't think that that's something that --  
14 actually, I think discussions -- I don't know if we have an  
15 official position on it, but we are --

16 MR. BUENROSTRO: Fred Buenrostro, Chief Deputy  
17 Director.

18 We voted against those increases.

19 CHAIRMAN BURTON: Do you have a feeling on the  
20 legality.

21 MR. BUENROSTRO: It's the same as our vote.

22 CHAIRMAN BURTON: That it's not legal?

23 MR. BUENROSTRO: Yes.

24 SENATOR JOHNSON: In other words, you might have  
25 been persuaded to vote for it had you believed.

26 MR. BUENROSTRO: For the record, no.

27 [Laughter.]

28 CHAIRMAN BURTON: Are you aware that they're



1 issuing their own checks now?

2 MR. BUENROSTRO: Yes, I am.

3 CHAIRMAN BURTON: Does any other agency get to do  
4 so that? Where does it come out, of the retirees' money or  
5 what? How do they issue checks?

6 MR. SCHWARTZ: That's a good question. We're not  
7 entirely sure.

8 CHAIRMAN BURTON: What's going on?

9 MR. BUENROSTRO: They're drawing it on the Public  
10 Employees Retirement fund and issuing the checks out of the fund  
11 itself.

12 MR. SCHWARTZ: There's an issue of law as to  
13 whether they have the authority to do that under Proposition  
14 162.

15 CHAIRMAN BURTON: They've gotten somewhat  
16 arrogant.

17 Senator Karnette.

18 SENATOR KARNETTE: I have a question about health  
19 care. I know that people see different roles for what the state  
20 ought to be doing.

21 How do you feel about reducing the health care  
22 costs by actually offering preventive services and benefits? I  
23 know that there's a lot of talk about that now, like diet plans  
24 and things like that.

25 There's so many things that can be done for  
26 public employees other than just paying premiums. Do you put  
27 that into your negotiation package as well?

28 MR. SCHWARTZ: Yes. In fact, that's the type of

1 proposal, preventive care proposals, that will reduce health  
2 premium costs that we are wanting to explore in these joint  
3 Labor Management Health Benefit Committees. We would like to  
4 see those as components of health plans that are offered to  
5 state employees.

6 SENATOR KARNETTE: I am kind of interested in the  
7 negotiations you're doing, because there are two large groups,  
8 and they can have a real impact.

9 What happens if you negotiate something. You've  
10 already negotiated with these ten groups and the eleven that are  
11 left, suppose you negotiate, you settle something with one, and  
12 then another one, and then another one? Will things be  
13 retroactive, or will it begin when the negotiation package is  
14 accepted?

15 MR. SCHWARTZ: It's all subject to negotiations.  
16 If that's a circular answer, I'm sorry.

17 SENATOR KARNETTE: I know. Well, does it look  
18 promising?

19 MR. SCHWARTZ: Yes, I think so. We're optimistic  
20 that ultimately we'll find a solution with all 21 bargaining  
21 units.

22 SENATOR KARNETTE: Because this healthcare thing  
23 is a real big issue, and everybody knows that. But public  
24 employees, one of things that draws people in to positions where  
25 they don't make a huge salary, and they work in outlying  
26 districts -- how's that, Pete -- and other problems is the fact  
27 that they get good health care, they get good retirement.  
28 People forget that.

1 MR. SCHWARTZ: I understand that.

2 SENATOR KARNETTE: Okay.

3 CHAIRMAN BURTON: Senator Vincent.

4 SENATOR VINCENT: I don't have any questions.

5 When I first was introduced to this Committee,  
6 Carolyn here came in and brought the book in. She said we're  
7 going to have to confer with Howard Schwartz.

8 I said, Howard Schwartz? I thought that was a  
9 guy who was a used car dealer in Inglewood.

10 [Laughter.]

11 MR. SCHWARTZ: I may have a relative I don't know  
12 about.

13 SENATOR VINCENT: Anyway, I looked at the record,  
14 and I'm very impressed with the record you have with labor, and  
15 I think you'll do a great job. It's a pleasure meeting you.

16 MR. SCHWARTZ: Thank you, Senator. I feel the  
17 same.

18 CHAIRMAN BURTON: Do you have any family here?

19 MR. SCHWARTZ: Yes, I have my wife with me here  
20 today, Katrina. We have a one-year-old son who we decided to  
21 leave at home.

22 CHAIRMAN BURTON: Witnesses in support, briefly.

23 MR. BROAD: Mr. Chairman and Members, Barry  
24 Broad.

25 I've known Mr. Schwartz for 25 years. We went to  
26 college together. We studied the bar together.

27 CHAIRMAN BURTON: Who knows him better, you or  
28 Steinberg?

1 MR. SCHWARTZ: Barry does.

2 MR. BROAD: I do, and Howard is one of the most  
3 extraordinarily well balanced people I've ever met. He'll do a  
4 great job. He has done a great job. He will do a great job.  
5 It's a great appointment, and urge the confirmation.

6 Thank you.

7 CHAIRMAN BURTON: Next.

8 MR. COPELAN: Good afternoon, Mr. Chairman.  
9 Craig Copelan with the Professional Engineers in California  
10 Government.

11 We're familiar with Mr. Schwartz's work at CSEA,  
12 and we're strongly in favor of his new position.

13 Thank you.

14 MR. BAKER: Mr. Chairman, Steve Baker with Aaron  
15 Read and Associates, representing the California Association of  
16 Highway Patrolmen, the CDF Firefighters, and the California  
17 Association of Professional Scientists.

18 I come after Steinberg. We're all in support.

19 Thank you.

20 MR. FRIES: Tim Fries with CUSE, the California  
21 Union of Safety Employees.

22 I'd just like to say that everybody holds him in  
23 high respect who's worked with him in his current position and  
24 with CSEA, and we wish him luck.

25 CHAIRMAN BURTON: Any witnesses in opposition?  
26 Hearing none, move in nomination.

27 Any other questions? Call the roll.

28 SECRETARY WEBB: Senator Karnette.



1 SENATOR KARNETTE: Aye.

2 SECRETARY WEBB: Kanette Aye. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Vincent.

5 SENATOR VINCENT: Aye.

6 SECRETARY WEBB: Vincent Aye. Senator Johnson.

7 SENATOR JOHNSON: Aye.

8 SECRETARY WEBB: Johnson Aye. Senator Burton.

9 CHAIRMAN BURTON: Aye.

10 SECRETARY WEBB: Burton Aye. Five to zero.

11 CHAIRMAN BURTON: Congratulations.

12 MR. SCHWARTZ: Thank you, sir.

13 [Thereupon this portion of the

14 Senate Rules Committee hearing was

15 terminated at approximately 4:03 P.M.]

16 --ooOoo--

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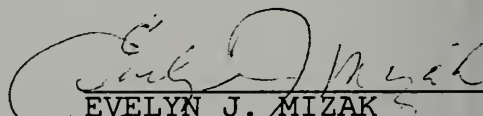
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SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

CURTIS L. CHILD, Director  
Department of Child Support Services

SENATOR SHEILA KUEHL

ASSEMBLY MEMBER DION ARONER

LENNY GOLDBERG  
Children Now

MARGARET PENA, Executive Director  
Child Support Directors Association

MELANIE SNIDER  
Association for Children for Enforcement of Support, Inc.

MILTON M. HYAMS, Director  
San Francisco Department of Child Support Services

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Curtis Child, Department of Child Services.

Senator Kuehl.

SENATOR KUEHL: Thank you, Senator Burton.

Senators, I am here to speak very briefly in favor, obviously, of the confirmation of Curt Child. I've known him for several years. I was one of the authors of the bills that reformed the child support enforcement system and created the department that Mr. Child has been serving as Director for almost a year now.

He has already begun to implement all of the parts of our bills, I think, in exactly the fashion that we had hoped. Eleven of the counties have already been converted to county agencies, and I'm told that we've already saved over a million dollars from what they were spending as those eleven counties under the DAs in developing the state-of-the-art recommendations that we asked him to develop.

I think he was the right guy when he started, and I definitely think he's the right guy now. I hope that you will confirm his appointment.

ASSEMBLY MEMBER ARONER: Senator Burton and Members of the Committee, it's a great pleasure to recommend to you that you confirm Curt Child for the Director of Child Support Services. This is my donation to the cause.

Curt was the Chief Consultant to our committee on the child support issue. As many of you know, he wrote most of



1 the major legislation in the area. So for me, it really is an  
2 issue of having the person who wrote it, carry it out now, and I  
3 don't think that there's a better person who can do that for us.

4 We've already made major steps forward. The most  
5 important thing from my perspective is that the federal  
6 government's beginning to feel comfortable with us for the first  
7 time that we might actually be able to meet our obligations  
8 under their statutes.

9 So, it's a real honor and a pleasure to recommend  
10 that you confirm him.

11 CHAIRMAN BURTON: Thank you very much.

12 Mr. Child, we have your statement which will be  
13 made part of the records.

14 Why don't you just highlight a few things.

15 MR. CHILD: Thank you, Senator Burton, Members of  
16 the Committee.

17 Thank you for the opportunity to appear today.

18 One thing I just want to say, in addition to what  
19 I've already given you in the testimony, is that we really view  
20 the charge for the new Department of Child Support Services as  
21 one to establish a strong state-directed uniform child support  
22 program. And that's really what we're making all of our efforts  
23 directed to, so we don't have programs that are looking  
24 differently in different counties. We think that, as was  
25 envisioned with the initial legislation, that uniformity will  
26 indeed bring substantially greater collections in this program.

27 If I can just say a couple things that we have  
28 established as our priority. One is to get the Department





1 established. We've been able to put together an extremely  
2 talented executive team. We've got talents from both inside and  
3 outside state service, and both inside and outside the child  
4 support world that we think is very important to bring new  
5 views, new vision into the child support program that's been  
6 lacking.

7               The other, I think, the primary priority for us  
8 now, as you know, we have an obligation to build a single  
9 statewide automation system in California, and we're currently  
10 incurring penalties from the federal government for not having  
11 that system up. And we are really looking toward not repeating  
12 the errors that happened when that prior effort to automate the  
13 program, and to balance the real pressure to implement that  
14 system quickly against the federal penalties so that we can  
15 really build a system that's not just quickly built, but one  
16 that will take us and the program into the future.

17               I also did want to notice, as Senator Kuehl  
18 mentioned, we have begun transitioning the counties out of the  
19 district attorneys' offices into new, stand-alone Child Support  
20 Departments. We took advantage of a provision in the  
21 legislation to do that early. And Senator Burton, San Francisco  
22 was our first pioneer county to go. And as mentioned, we are  
23 realizing nearly a million dollars in savings just from that  
24 transition out of the district attorney's office to new  
25 stand-alone programs now, due in part to the indirect costs that  
26 were being charged by the district attorneys.

27               We're also putting a strong emphasis on customer  
28 service in this program now. As we've gone back, and you



1 probably remember the Los Angeles Times series that was highly  
2 critical of this program, and really looking at that, you can, I  
3 think, get a feel that a lot of that came from how we were  
4 treating the customers in this program: how we were treating  
5 moms, and how we were treating dads.

6 To that end, we have allocated \$25 million to the  
7 counties to deal specifically with customer service, which has  
8 meant 141 new positions, ombudsperson positions at the local  
9 level to ensure that complaints are getting resolved locally so  
10 you won't be seeing those complaints any time in the future in  
11 your offices.

12 We've also required the counties to all put  
13 together plans now, customer service plans, that we're going to  
14 be looking for some of the best practices so that we can spread  
15 those throughout the program statewide.

16 So, those are some of our major initiatives right  
17 now. We certainly discovered over the course of this past year  
18 that our problems are quite extraordinary, and we can't  
19 underestimate the difficulties in turning around this program.  
20 But I can say we are building, I think, a strong foundation and  
21 a consensus for the direction of where this program is going.

22 I am convinced that the animosities that were  
23 created during this legislation and prior are really  
24 dissipating, and we've got the full support of our local  
25 partners and our federal partners.

26 So, this is very difficult and important work,  
27 but I think we are making good progress now on getting it  
28 resolved.





1 With that, I'd be happy to answer any questions  
2 you might have.

3 CHAIRMAN BURTON: How did you save the million  
4 dollars?

5 MR. CHILD: Just directly from the conversions  
6 out of the district attorneys' offices to the local offices.  
7 What we discovered is that district attorneys' offices were  
8 actually charging some fairly significant indirect costs to the  
9 program. Those will stay in the program now.

10 CHAIRMAN BURTON: Are the DAs cooperating with  
11 you?

12 MR. CHILD: Actually they are. It's actually  
13 working better than I thought it would be, with the exception of  
14 maybe one. It's been going quite smoothly, and I've been  
15 meeting with them as we do the transition.

16 CHAIRMAN BURTON: Big county, small county?

17 MR. CHILD: A larger county.

18 CHAIRMAN BURTON: Which county?

19 MR. CHILD: San Diego has been a bit of a  
20 challenge. But other than that, I think it's going quite  
21 smoothly.

22 CHAIRMAN BURTON: Do you think you'll be able to  
23 work out the San Diego problem?

24 MR. CHILD: Yes.

25 CHAIRMAN BURTON: If you don't, I think you  
26 should let us know.

27 What's your time line on completion of the  
28 statewide computer system?



1 MR. CHILD: We have an end date of December,  
2 2005.

3 CHAIRMAN BURTON: That long?

4 MR. CHILD: Yes.

5 CHAIRMAN BURTON: What do you do in the meantime?

6 MR. CHILD: What we are now using, as the  
7 legislation required, a performance based procurement, which  
8 means that we've got to develop entirely up front what the  
9 specifications are going to be for the system. And then we need  
10 to start working with the vendors. We've now prequalified seven  
11 of the vendors.

12 CHAIRMAN BURTON: I guess the question wasn't too  
13 clear.

14 There's a reason you have a statewide computer  
15 system; right?

16 MR. CHILD: Yes.

17 CHAIRMAN BURTON: We don't have one.

18 MR. CHILD: That's correct.

19 CHAIRMAN BURTON: What are we doing to do  
20 whatever the statewide system was going to do until we get it?

21 MR. CHILD: We have a plan for an interim system.  
22 What we've worked out with the federal government is that we're  
23 going to be converting all of our counties who are on multiple  
24 systems to six systems that will be our interim systems. We've  
25 made all of those conversions except for nine, and those nine  
26 will happen over the course of the next about 16 months.

27 CHAIRMAN BURTON: And the feds --

28 MR. CHILD: That's right, the feds have



1 sanctioned that approach and will provide federal financial  
2 participation for maintenance and operation.

3 CHAIRMAN BURTON: What I think we'd like to know  
4 is if any counties are dragging their feet, because Senator  
5 Johnson was also very instrumental in getting very strong  
6 support for this when it was in the Senate.

7 And one, we don't want it to fail, clearly, but  
8 we definitely don't want it to fail because people who kind of  
9 lost some turf are dragging their feet.

10 Are you staffed up? Are you on target to be  
11 fully staffed?

12 MR. CHILD: That's right. By June, we will be  
13 fully staffed. We had about 75 positions when I first started.  
14 We have 150 positions right now, 33 that we should have in the  
15 next six weeks, and then by the end we'll have our full 240  
16 positions.

17 CHAIRMAN BURTON: The timeline for transition to  
18 county office, in other words, you're on target?

19 MR. CHILD: We actually moved eleven early. We  
20 took the opportunity to move eleven last year. We called our  
21 pioneer counties so we could get a feel of what are going to be  
22 the issues as we make the transitions.

23 We'll have about three-quarters of the state's  
24 cases transitioned by the end.

25 CHAIRMAN BURTON: The bill got its genesis with  
26 the fact that parents, and primarily well over 98 percent would  
27 be the father, was not stepping up to the plate, so to speak, to  
28 make payments.





1 But in certain areas, we also hear from fathers  
2 that they're getting knocked either for something they didn't  
3 really owe, or that they really have paid it, or it's really  
4 like a hardship.

5 How do you deal with that aspect of it? I guess  
6 it's too early to determine whether that's a real problem for  
7 you yet, but it turns into a problem for us a lot of times.

8 MR. CHILD: Exactly. And that's what I was  
9 speaking of. We certainly saw that as something we had to move  
10 on immediately, and that's what we are putting into our customer  
11 service initiative, is whether those concerns were legitimate or  
12 not, they weren't getting resolved. So, we have now 141 new  
13 positions that's directed specifically at resolving those new  
14 positions.

15 That \$25 million allocation went out in October.  
16 The counties are just in the process of bringing those persons  
17 on.

18 So it ranged in counties. I think San Francisco  
19 got three or four of those new positions; Los Angeles got 38 of  
20 those positions. It's specifically to deal with complaint  
21 resolution at the local level.

22 CHAIRMAN BURTON: Actually most of the  
23 complaints, at least that I heard, they were not from the urban  
24 areas. I think there was like a big movement in Solano, as I  
25 recall.

26 MR. CHILD: That's right.

27 CHAIRMAN BURTON: Well, they used to be kind of  
28 rural and now they're not, but areas like that as opposed to



1 L.A. or Orange.

2 MR. CHILD: We made sure every single county got  
3 one of these positions, at least one.

4 CHAIRMAN BURTON: Out of idle curiosity, have you  
5 got any feeling as to how much of the so-called 14 billion owed  
6 to the children realistically we have chance to get?

7 MR. CHILD: What we've done is, we've hired one  
8 of the leading researchers in this area, Elaine Sorenson from  
9 the Urban Institute, to do that work as the legislation required  
10 for us. We are going to have, I think, a very good sense. Her  
11 work will be completed about June of this year, that we were  
12 hoping to see as we start rolling out our regulations that are  
13 due in July.

14 CHAIRMAN BURTON: How much you write off?

15 MR. CHILD: That's right.

16 The first piece of the work that we asked her to  
17 do is, as we're setting performance standards, to do an analysis  
18 for us of how much we think maybe socio-economic, demographic  
19 features affect the counties' performance in the program. And  
20 quite interestingly, what she came back with was, there is  
21 little correlation between what the demographics in the county  
22 are and the county's performance, which is suggesting to us that  
23 this is, in very much large part, a management issue that we've  
24 got to look at, as opposed to trying to create standards around  
25 various regions of the state.

26 CHAIRMAN BURTON: Senator Johnson.

27 SENATOR JOHNSON: No questions.

28 CHAIRMAN BURTON: Senator Karnette.





1 SENATOR KARNETTE: I don't think so.

2 CHAIRMAN BURTON: Senator Vincent.

3 SENATOR VINCENT: I'm just amazed that he's so  
4 well prepared.

5 CHAIRMAN BURTON: Senator Knight.

6 SENATOR KNIGHT: No questions.

7 CHAIRMAN BURTON: Moved by Senator Johnson  
8 without objection.

9 Do you have anybody here you wants to introduce?

10 MR. CHILD: I actually have my wife here with me  
11 today, and I think there were a few people that want to say  
12 something.

13 CHAIRMAN BURTON: You've got to figure when  
14 you've got the votes, we don't want anybody screwing it up.

15 Witnesses in support briefly.

16 MR. GOLDBERG: Lenny Goldberg on behalf of  
17 Children Now. We worked very closely on the child support reform  
18 that was carried by Senator Burton and now Senator Kuehl.

19 Curt has done a phenomenal job of putting  
20 together the Department from scratch, and dealing with  
21 automation and many issues.

22 As advocates, we're supposed to be never  
23 satisfied, but we're really happy with the way it's gone so far.

24 Thank you.

25 MS. PENA: Margaret Pena, Executive Director with  
26 the newly formed Child Support Directors Association,  
27 representing the 58 child support directors at the local level.

28 We're proud to support Mr. Child's confirmation



1 here today. In the past year, he has clearly laid out a vision  
2 for the new Department, and has consistently included the  
3 counties in the decision making processes around developing the  
4 new procedures that we're going to be following. We look  
5 forward to a long and successful relationship with Mr. Child.

6 MS. SNIDER: Melanie Snider with ACES,  
7 Association for Children for Enforcement of Support.

8 We are representative of custodial parents, and  
9 we are also in great support of Mr. Child's confirmation. He  
10 has worked very closely with the parent groups, including us in  
11 all the decision making processes. We have been very involved  
12 with the customer service allocation project, and also the  
13 Policy P-3 Project.

14 I can't say enough about the innovative ideas  
15 that Mr. Child has come up with, and we strongly support his  
16 confirmation.

17 MR. HYAMS: I'm Milt Hyams. I'm acting Director  
18 of the Department of Child Support Services in San Francisco.  
19 We were the first pioneer county.

20 And I will say this, that if Curt and his  
21 Department support the rest of the counties as they have us, the  
22 transition from a DA-operated program to a local departmentally  
23 operated program will be seamless.

24 One other comment, too, with regard to the  
25 customer service. We look forward to implementing that. Now,  
26 we considered that to be an important initiative in the  
27 transition from a law enforcement program to a service program.

28 And we would like to see Curt continue those



1 initiatives.

2 Thank you.

3 CHAIRMAN BURTON: Call the roll.

4 SECRETARY WEBB: Senator Karnette.

5 SENATOR KARNETTE: Aye.

6 SECRETARY WEBB: Karnette Aye. Senator Knight.

7 SENATOR KNIGHT: Aye.

8 SECRETARY WEBB: Knight Aye. Senator Vincent.

9 SENATOR VINCENT: Aye.

10 SECRETARY WEBB: Vincent Aye. Senator Johnson.

11 SENATOR JOHNSON: Aye.

12 SECRETARY WEBB: Johnson Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Five to zero.

15 MR. CHILD: Thank you very much.

16 CHAIRMAN BURTON: Congratulations.

17 [Thereupon this portion of the  
18 Senate Rules Committee hearing was  
19 terminated at approximately 2:00 P.M.]

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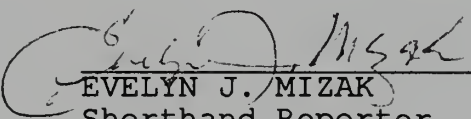
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TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

STEPHAN CASTELLANOS  
State Architect

ROCKY BURKS  
Coalition of Disability Access Professionals

KATHRYN P. JETT, Director  
Alcohol and Drug Programs

SENATOR DEBORAH ORTIZ

TRISHA STANIONIS  
California Association of Alcohol and Drug  
Program Executives

HOLLY MITCHELL  
Office of Women's Health Advisory Council





1 SUSAN BLACKSHER

2 California Association of Addiction and Recovery Resources

3 MARCELLA SPENCE

4 Berkeley Addiction Treatment Services

5 TERRI THOMAS

6 California Association of Public Hospitals and Health  
Facilities

7 CHARLEEN MILBURN

8 California Medical Association

9 FRANK RAMIREZ

10 American GI Forum

Café de California

11 BILL DEMERS

12 County Alcohol and Drug Program Administrators

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Stephan Castellanos, State Architect.

MR. CASTELLANOS: Good afternoon, Senator Burton and Honorable Members of the Rules Committee.

I'm very honored to be here today requesting your support of my appointment by Governor Davis to serve as State Architect.

The history of the State Architect extends back to the creation of the Capitol itself, and continues through the design and construction of many structures that now represent California's past. The position was founded on the premise that the design of the built environment represents our values regarding government and community in the buildings that become our legacy for future generations.

In recent times, the State Architect has taken on new roles and responsibilities, but is no less involved with the policies that guide California's design and construction efforts. New challenges and opportunities have presented themselves since 1850. The energy crisis requires new thinking in how we build and use resources. The critical need for an educated population and workforce demands that we better understand the effects of classroom environments on teaching and learning, and we must increasingly ensure physical and program access to all of California's citizens so they can contribute fully to the continued greatness of this state.

I pledge to you that I will be tireless in

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1 ensuring that California's public schools are safe and  
2 accessible, and also represent the best we can do to create  
3 schools that support teaching and learning and are sustainable  
4 centers of the communities. I will be tireless in my efforts to  
5 guarantee full and complete access for all of our citizens, and  
6 to assure that California provides the broadest range of  
7 opportunity in all places when any of us enjoy access as a  
8 right.

9           Equally, it will be my goal to be a full partner  
10 in making California a great public client, one that is aware of  
11 the transformational impact it can have on the design and  
12 construction marketplace and one that prudently employs that  
13 influence to grade schools and public buildings that contribute  
14 to the health and vitality of their communities.

15           I believe that no other time in our history have  
16 creative solutions been so critically needed. Architecture is  
17 not only about style or taste, or buildings in public places.  
18 Rather, it is about the experience of each of us within the  
19 built environment. It is about our use of resources, and equity  
20 and fairness as we accommodate the needs of Californians so that  
21 all of us may contribute to our fullest capacity as citizens of  
22 my home, this great State of California.

23           Thank you for the this opportunity. It is a  
24 great honor, and I promise to give you the best that I can  
25 give.

26           With your indulgence, I'd like to introduce my  
27 wife, Linda Duribe, who is sitting right behind me here.

28           CHAIRMAN BURTON: Your office, along with others,



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1 are responsible for reviewing and approving school construction  
2 projects, and there's been a lot of complaints lately about  
3 delays in the review and approval of the school process program.

4 Do you have plans to expedite?

5 MR. CASTELLANOS: Absolutely. We've been meeting  
6 with school districts up and down the state, and talking about  
7 timing, timely response. We are adding a broader range of  
8 services and starting to work with local building departments,  
9 among other things, to try to create more opportunities for  
10 school districts to choose different paths and alternative paths  
11 for school construction approval.

12 CHAIRMAN BURTON: Any questions? Moved.

13 Witnesses, briefly, in support.

14 MR. BURKS: Rocky Burks, member of the Coalition  
15 of Disability Access Professionals in support, and I'm also here  
16 representing my agency, Independent Living Services of Northern  
17 California, and co-sponsor of Senate Bill SB 1242 that's going  
18 to bring our building codes up to federal compliance.

19 CHAIRMAN BURTON: Thank you.

20 Any witnesses in opposition? Hearing none,  
21 Secretary call the roll on approval.

22 SECRETARY WEBB: Senator Karnette.

23 SENATOR KARNETTE: Aye.

24 SECRETARY WEBB: Karnette Aye. Senator Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Vincent.

27 SENATOR VINCENT: Aye.

28 SECRETARY WEBB: Vincent Aye. Senator Johnson.



1 SENATOR JOHNSON: Aye.

2 SECRETARY WEBB: Johnson Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Five to zero.

5 CHAIRMAN BURTON: Congratulations.

6 MR. CASTELLANOS: Thank you very much.

7 CHAIRMAN BURTON: Kathy Jett, Director of  
8 Alcohol and Drug Programs.

9 MS. JETT: Good afternoon, Senator Burton,  
10 Members of the Committee.

11 It is an pleasure to be before you this afternoon  
12 to discuss my qualifications.

13 CHAIRMAN BURTON: I think you want to be  
14 introduced first by Senator Ortiz.

15 SENATOR ORTIZ: Thank you.

16 Certainly I'm honored here to be introducing our  
17 nominee today, Kathy Jett. As many of you know, she began her  
18 career as a staff member, assisting people in recovery. She  
19 brings real world experience to actually addressing a very  
20 challenging issue that the state is going to, hopefully, be  
21 dealing with in a more innovative manner now that Prop. 36  
22 requires implementation.

23 But she also has a balanced history of bringing  
24 in drug and alcohol program consultant work. The Division of  
25 Drug Abuse, currently known as the Department of Alcohol and  
26 Drug Programs, after ten years in various roles, she recently is  
27 coming to us as a result of working under the Attorney General,  
28 Crime and Violence Prevention Center. I met her as she was

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1 responsible for the Office of Women's Health, and took a very  
2 key role of really working through a lot of bureaucracy and  
3 implementing a program that I felt very strongly about that  
4 addressed women's issues, health issues.

5 She is one of the unique public candidates that  
6 we will see in our time. She's very pragmatic. You know, makes  
7 government work for all, and really, I think, has the  
8 opportunity to provide innovation.

9 I really look forward to serving with her in our  
10 latest challenge with implementing Prop. 36. I wholeheartedly  
11 endorse her. I think we should all be proud of her candidacy,  
12 and I would respectfully ask that the Members of this Committee  
13 strongly support her as well.

14 CHAIRMAN BURTON: Kathy.

15 MS. JETT: Thank you, Senator. I'll start  
16 again. Thank you, Senator.

17 It's a pleasure to be before you this afternoon  
18 to talk about my qualifications to be the Director of the  
19 Department of Alcohol and Drug Programs.

20 I think the strongest statement that I'd like  
21 point out is that I've served both in public health and law  
22 enforcement, which I think gives me a unique perspective at a  
23 time when we're implementing a very contentious Proposition 36.

24 I've served two tours with the Attorney General's  
25 office, one for ten years, assisting them in developing demand  
26 reduction programs for alcohol and drug abuse, gang prevention,  
27 and domestic violence. I was asked to return under now Attorney  
28 General Lockyer as Director of Crime and Violence Prevention,

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1 which further expanded my experience in terms of working and  
2 being very sensitive to the issues and challenges of law  
3 enforcement, and appreciation for community-based policing and  
4 such.

5 I then returned to the Health Department. I  
6 served two terms in the Health Department, one, as Senator Ortiz  
7 mentioned, as a drug abuse consultant in then the Division of  
8 Drug Abuse, which became the Department of Alcohol and Drug  
9 Programs, and currently now serving as Director of Alcohol and  
10 Drug Programs.

11 My major focus is on Prop. 36 right now, as you  
12 can much imagine. I ask and will need your support in  
13 implementing that provision and the laws associated with Prop.  
14 36.

15 I ask for your support, and if you have any  
16 questions.

17 CHAIRMAN BURTON: Senator Johnson.

18 SENATOR JOHNSON: No questions at this time.

19 CHAIRMAN BURTON: Senator Karnette.

20 SENATOR KARNETTE: I had one thing.

21 I would like to know what you're going to do to  
22 expand adequate treatment capacity, because I'm concerned about  
23 that.

24 MS. JETT: It's currently one of the major  
25 challenges of 36. What we're trying to do is move funding  
26 quickly, which we've already done. We've moved \$60 million to  
27 the counties so that they could plan and prepare for the  
28 implementation of 36 July 1.

1. The first part of the report deals with the general situation of the country and the progress of the work during the year.

2. The second part deals with the results of the work done during the year and the progress of the work during the year.

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13. The thirteenth part deals with the results of the work done during the year and the progress of the work during the year.

14. The fourteenth part deals with the results of the work done during the year and the progress of the work during the year.

1                   We're currently working with counties in  
2 providing technical assistance to those that need them.

3                   And lastly, we are expanding our certification  
4 and licensing staff so that we're able to turn around  
5 certification applications quickly.

6                   CHAIRMAN BURTON: Witnesses in support, briefly.

7                   MS. STANIONIS: I'm Trish Stanionis. I  
8 represent the California Association of Alcohol and Drug Program  
9 Executives, and I'm in support.

10                  MS. MITCHELL: Holly Mitchell, representing the  
11 Office of Women's Health Advisory Council, in strong support.

12                  MS. BLACKSHER: Susan Blacksher, California  
13 Association of Addiction Recovery Resources in support.

14                  MS. SPENCE: Marcella Spence, from Berkeley  
15 Addiction Treatment Services, Bay Area, California, in support.

16                  MS. THOMAS: Terri Thomas on behalf of California  
17 Association of Public Hospitals and Health Systems in support.

18                  MS. MILBURN: Charlene Milburn with the  
19 California Medical Association in support.

20                  MR. RAMIREZ: Frank Ramirez, representing the  
21 American GI Forum and Cafe de California in strong support of  
22 her appointment.

23                  MR. DEMERS: Bill Demers, representing the County  
24 Alcohol Drug Program Administrators Association in strong  
25 support for Kathy's confirmation.

26                  CHAIRMAN BURTON: Witnesses in opposition.

27                  Hearing none, do you have anybody you want to  
28 introduce, Kathy.



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FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME

BY JAMES OSGOOD

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1 MS. JETT: Thank you, Senator, yes. My brother  
2 and mother traveled from the east coast today. There's my  
3 brother and my mother, Lena. My west coast family, which is  
4 Mary Hancock, and my partner, Joan Hancock, and Joan's sister,  
5 Nora, in the back aisle.

6 CHAIRMAN BURTON: Call the roll.

7 SECRETARY WEBB: Senator Karnette.

8 SENATOR KARNETTE: Aye.

9 SECRETARY WEBB: Karnette Aye. Senator Knight.

10 SENATOR KNIGHT: Aye.

11 SECRETARY WEBB: Knight Aye. Senator Vincent.

12 SENATOR VINCENT: Aye.

13 SECRETARY WEBB: Vincent Aye. Senator Johnson.

14 SENATOR JOHNSON: Aye.

15 SECRETARY WEBB: Johnson Aye. Senator Burton.

16 CHAIRMAN BURTON: Aye.

17 SECRETARY WEBB: Burton Aye. Five to zero.

18 CHAIRMAN BURTON: Congratulations, Kathy.

19

20 [Thereupon this portion of the  
21 Senate Rules Committee hearing was  
22 terminated at approximately 1:52 P.M.]

23 --ooOoo--

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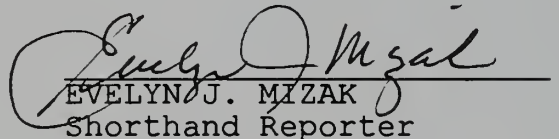
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

22<sup>nd</sup> day of January, 2001.

  
EVELYN J. MIZAK  
Shorthand Reporter

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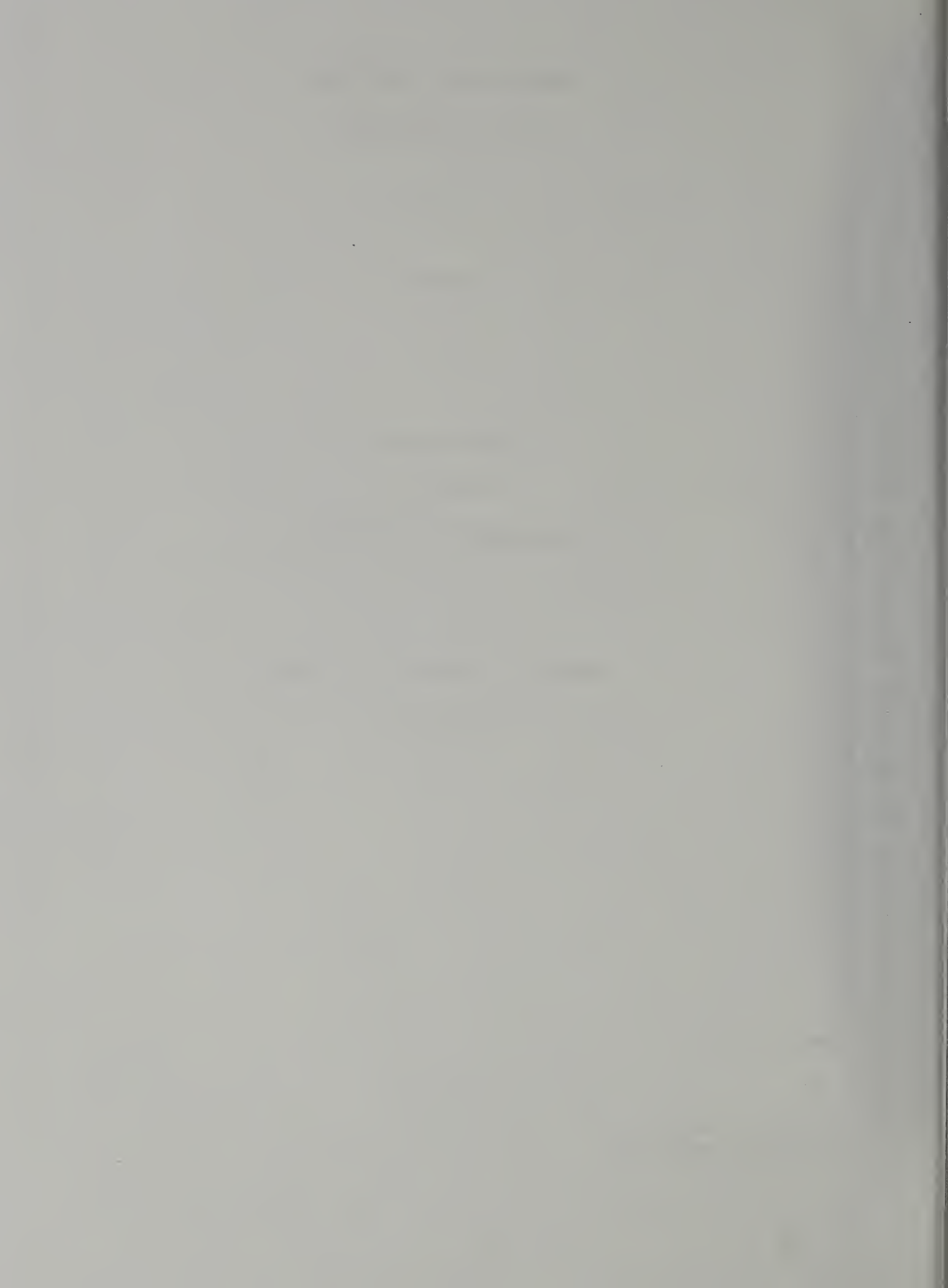
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27 Evelyn J. Mizak  
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR ED VINCENT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

HAROLD BARKER, Member  
California State Lottery Commission

JOAN WILSON, Director  
California State Lottery Commission

AMY B. DEAN, Member  
California Community Colleges  
Board of Governors

JUDY MICHAELS  
California Federation of Teachers

DAVID HAWKINS  
Faculty Association of California Community Colleges

CATHERINE L. UNGER, Member  
California Community Colleges  
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--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Harold Barker, member of the California State Lottery Commission.

MR. BARKER: Pardon me for being hesitant. I'm just unfamiliar with the process.

CHAIRMAN BURTON: You're now in your process. Go ahead, sir.

MR. BARKER: Mr. Chairman, Senators, and staff, good afternoon. I'm Hal Barker, Sheriff of El Dorado County, and appointed Commissioner of the California State Lottery.

I've been a career law enforcement officer for 42 years, beginning in 1959 in Santa Paula, California, where I started as a patrolman, and frankly where I grew up, and rose to the rank of captain.

I was then hired by Sheriff John McDonald as the Chief Deputy Sheriff in San Mateo County, where I rose to the rank of Assistant Sheriff, second in command. During that time, I served for several years as Police Chief at San Francisco International Airport.

After an unsuccessful bid to become Sheriff of San Mateo County, I worked for Milton Meyer and Company, now known as the Shorenstein Company for Walter Shorenstein as Chief of Security for a year. Then my yearning to re-enter my real profession caused me to apply and be selected as Police Chief in Folsom, the post I held for 13 years.

CHAIRMAN BURTON: Did you work with Lou Gerial.



1 MR. BARKER: Yes, I did, sir.

2 CHAIRMAN BURTON: How did he find you?

3 MR. BARKER: Well, I think he liked me. I was  
4 his boss.

5 CHAIRMAN BURTON: He always acted like he was the  
6 boss.

7 MR. BARKER: I know that.

8 CHAIRMAN BURTON: Okay.

9 MR. BARKER: My yearning to re-enter my real  
10 profession caused me to apply and be selected as Police Chief in  
11 Folsom, and I served there for 13 years, resigning to accept an  
12 appointment as Sheriff in El Dorado County, a position to which  
13 I was subsequently elected, and I'm now serving the last two  
14 years of my elected term.

15 My wife is deceased. I have two children:  
16 Russell, who is a retired Major in the United States Air Force,  
17 or from the Air Force; Terry, who is a Deputy District Attorney  
18 in Contra Costa County.

19 During my career, I graduated from L.A. State  
20 College with a Bachelor of Science Degree, and USC with a  
21 Master's Degree. I'm a graduate of the FBI National Academy,  
22 and my colleagues on the Commission have just seen fit to elect  
23 me as the Vice Chair.

24 I'm enjoying my service on the Lottery  
25 Commission, and with your blessing, I'd like to continue.

26 CHAIRMAN BURTON: Thank you very much.

27 Do you know how much money that the Lottery  
28 Commission spends, if any, on the problems of gambling addiction





1 and compulsive gamblers?

2 MR. BARKER: Not exactly, sir, no.

3 CHAIRMAN BURTON: Do they spend anything?

4 MR. BARKER: They spend some money. They're  
5 concerned about that problem. They work with Gambling  
6 Anonymous. They have a hot line to talk about gambling  
7 problems.

8 We talk about those problems from time to time at  
9 the Commission, what we can do to help ease those problems.

10 CHAIRMAN BURTON: It would be helpful to us if  
11 you could come let us know exactly what percentage.

12 MR. BARKER: There are several members of the  
13 Lottery staff here. I could check with them and see if I can  
14 get an answer.

15 CHAIRMAN BURTON: Anybody have an answer.

16 FROM THE AUDIENCE: Yes, sir.

17 CHAIRMAN BURTON: How much?

18 MS. WILSON: Fifty thousand dollars. We  
19 supplement the committee on that.

20 CHAIRMAN BURTON: Why don't you come up, ma'am.

21 MS. WILSON: My name is Joan Wilson. I'm the  
22 Director of the Lottery. And I've only been on board about six  
23 months, but in that time we've come out with a brochure. And  
24 those were some of the first questions that I asked.

25 This is an organization that was formed but could  
26 not continue on with their work because they needed more money.  
27 So, we have supplemented them about \$50,000.

28 CHAIRMAN BURTON: Which organization?



1 MS. WILSON: It's Gambling Anonymous. It has a  
2 1-800 number with an Board of Directors that deal only with  
3 compulsive gambling.

4 CHAIRMAN BURTON: These are questions that are  
5 probably not fair to ask the Sheriff, but probably will be asked  
6 of you in the budget hearings. They deal with where you do your  
7 advertising; is it more in low income neighborhoods than others,  
8 and things of that sort. They would, at least in my judgment,  
9 would be more left to the Budget Committee than this.

10 MS. WILSON: I have two pamphlets on that that I  
11 brought with me, if you'd like to have them.

12 CHAIRMAN BURTON: Sure.

13 MS. WILSON: This was a study that we did shortly  
14 after I came in that shows the race, the sex, and the age of our  
15 players.

16 CHAIRMAN BURTON: How about the economic  
17 situation?

18 MS. WILSON: Yes, that is included in these, too.

19 CHAIRMAN BURTON: We'd like to see that. Thank  
20 you very much.

21 Any questions of the Sheriff? Senator Karnette.

22 SENATOR KARNETTE: I noticed on the web site that  
23 there's more than 50 percent going for prizes. I know the law  
24 says only 50 percent, but there's 52.5 percent going to prizes.

25 Can you explain what happened there?

26 MR. BARKER: I know that the law says 50 percent,  
27 and why it's over 50 percent, I can't explain. I certainly did  
28 not think it was. I would think we'd be -- unless there's some



1 real reason not to restrict it by the law, and I'm surprised to  
2 hear that, frankly.

3 I don't look at our web site. Maybe I should.

4 SENATOR KARNETTE: Well, I think since the law  
5 says 50 percent for prizes, because, you know, the rest of the  
6 money is supposed to go to schools.

7 MR. BARKER: It could be that with Super Lotto  
8 Plus, we might be just a bit over, and we know that we're going  
9 to come back within range. So, it might be over just at the  
10 moment.

11 But of all people in the world, the Lottery needs  
12 to follow the law. We're clearly under the microscope.

13 SENATOR KARNETTE: Especially with law  
14 enforcement on board.

15 CHAIRMAN BURTON: Any of your family here?

16 MR. BARKER: No, they're not.

17 CHAIRMAN BURTON: How long did you work for  
18 Shorenstein?

19 MR. BARKER: One year, sir.

20 CHAIRMAN BURTON: You had enough of Walter, or  
21 what?

22 MR. BARKER: Actually, I just yearned to be back  
23 at my business of law enforcement.

24 CHAIRMAN BURTON: Yearned to be free.

25 MR. BARKER: Well, Walter was a tough guy to work  
26 for, you know?

27 CHAIRMAN BURTON: Very well.

28 MR. BARKER: Everyday that I worked there, he





1 thought he was paying me too much money, and he didn't bother  
2 not telling me every single day. And I think he was saddened  
3 when I left.

4 CHAIRMAN BURTON: Probably was. He's a tough man  
5 but a fair man, unless you're Douglas.

6 In any event, witnesses in support? Witnesses in  
7 opposition?

8 Hearing none, moved by Senator Vincent.  
9 Secretary, call the roll.

10 SECRETARY WEBB: Senator Karnette.

11 SENATOR KARNETTE: Aye.

12 SECRETARY WEBB: Karnette Aye. Senator Knight.

13 SENATOR KNIGHT: Aye.

14 SECRETARY WEBB: Knight Aye. Senator Vincent.

15 SENATOR VINCENT: Aye.

16 SECRETARY WEBB: Vincent Aye. Senator Johnson.

17 SENATOR JOHNSON: Aye.

18 SECRETARY WEBB: Johnson Aye. Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Five to zero.

21 CHAIRMAN BURTON: Congratulations, Sheriff.

22 MR. BARKER: Thank you very much.

23 CHAIRMAN BURTON: Amy Dean, appointee to the  
24 California Community Colleges, Board of Governors.

25 We have your statement that is entered into the  
26 record. Why don't you just comment on how you see the role of  
27 the community colleges in the state education.

28 MS. DEAN: Sure.

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1 Well, thank you.

2 I want to just say that I feel that the community  
3 college system is an enormously critical part of California's  
4 future. I think of community colleges, that component of higher  
5 education, in a way in which Harvard Professor William Julius  
6 Wilson refers to equalizing institutions. In other words,  
7 institutions that help to create engines for social mobility and  
8 economic mobility for people, and particularly given their broad  
9 capacity for access. They're an important, important part in  
10 mobility for our state's working people.

11 In particular, given the fact that the new  
12 economy places a primacy emphasis on intellectual capital, and  
13 it not only demands skills, but state-of-the-art skills, it  
14 really becomes now an issue that access to education  
15 increasingly is important for leaders in California to focus on,  
16 I think, for two key reasons.

17 The first is that the most important capital  
18 investment that states and regions can make to help businesses  
19 be successful is investment in educating a regional and state  
20 workforce.

21 The second point is that given the new economy's  
22 emphasis on skills and state-of-the-art skills, ensuring that  
23 our economy is broadly shared, the prosperity of that economy is  
24 broadly shared, requires then that access be a very, very  
25 important piece. Higher education, access to higher education  
26 is an important piece for our state's population.

27 So, given the fact that we no longer have an  
28 economy that depends on the strength of one's back and the



1 dexterity of one's hands, access to education is key. And the  
2 entry point into the educational mainstream, higher education  
3 mainstream, is really our community college system.

4 CHAIRMAN BURTON: Questions, Senator Karnette.

5 SENATOR KARNETTE: You say the right things. I  
6 like what I hear.

7 CHAIRMAN BURTON: Senator Johnson.

8 SENATOR JOHNSON: No questions.

9 CHAIRMAN BURTON: Senator Vincent.

10 SENATOR VINCENT: No questions.

11 CHAIRMAN BURTON: Senator Knight.

12 SENATOR KNIGHT: No questions.

13 CHAIRMAN BURTON: Are the community colleges  
14 doing a fair amount of either outreach or publicity on the cal  
15 Grant program so that students understand that this program's  
16 available, and what they might be able to do?

17 MS. DEAN: You know, I don't think I can fairly  
18 answer the question in terms of to what extent is the system  
19 doing a comprehensive job. I don't feel that I can, in  
20 fairness, describe what they do.

21 CHAIRMAN BURTON: Are they doing anything?

22 MS. DEAN: Yeah, they do. I think that the key  
23 issue, though, is that there is a board, and speaking for myself  
24 in particular, that outreach is so critically important for the  
25 reasons that I spoke about earlier.

26 Access to skills and knowledge in this new  
27 economy becomes the defining characteristic between who wins and  
28 who loses in this economy. Our commitment as a board, and my





1 commitment personally to ensuring that communities of color, low  
2 income communities, that people have access, anybody who's a  
3 living, breathing person of appropriate age. It's got to be a  
4 huge priority for any player in California who is concerned  
5 about social and economic equity.

6 CHAIRMAN BURTON: We enacted this program, and  
7 what I would suggest is, at your next board meeting or whatever,  
8 you find out from the staff what they're doing to get the word  
9 out to the high schools. And especially, I would think, as far  
10 as community college is concerned, the high schools that send  
11 most of the kids, or the type of high schools that most of the  
12 kids are getting into community college.

13 MS. DEAN: I think it's a great point.

14 CHAIRMAN BURTON: Do you have any family here  
15 that you want to introduce?

16 MS. DEAN: No, I don't.

17 CHAIRMAN BURTON: Witnesses in support?

18 MS. MICHAELS: Judith Michaels, California  
19 Federation of Teachers.

20 We are here to support the confirmation.

21 MR. HAWKINS: David Hawkins with the Faculty  
22 Association, California Community Colleges, also in strong  
23 support.

24 CHAIRMAN BURTON: Any witnesses in opposition?

25 Hearing none, I'll move the nomination.

26 Secretary, call the roll.

27 SECRETARY WEBB: Senator Karnette.

28 SENATOR KARNETTE: Aye.



1 SECRETARY WEBB: Karnette Aye. Senator Knight.

2 SENATOR KNIGHT: Aye.

3 SECRETARY WEBB: Knight Aye. Senator Vincent.

4 SENATOR VINCENT: Aye.

5 SECRETARY WEBB: Vincent Aye. Senator Johnson.

6 SENATOR JOHNSON: Aye.

7 SECRETARY WEBB: Johnson Aye. Senator Burton.

8 CHAIRMAN BURTON: Aye.

9 SECRETARY WEBB: Burton Aye. Five to zero.

10 CHAIRMAN BURTON: Congratulations, Amy

11 MS. DEAN: Thank you.

12 CHAIRMAN BURTON: Catherine Unger.

13 We've got your statement, so if you could tell us  
14 what you consider the role of the community colleges in the  
15 future of the state?

16 MS. UNGER: Well, I think the role of the  
17 community college is multi. We have too many and so many roles.

18 And I think one of the things that I want to do  
19 as a board member is to try to make sure that we perform those  
20 roles well.

21 One of the most important things to me is the  
22 idea that when students come to our colleges, at whatever point,  
23 some students come and know that they are going to transfer to a  
24 four-year institution. But some students come just to take a  
25 few classes and to try it all out.

26 I think it's important that both our faculty and  
27 our counselors recognize some of these students and encourage  
28 them to take the proper classes, to make sure that they have



1 access to Cal Grants, or to whatever financial aid, so that they  
2 can continue with their education, transfer, and become a  
3 productive member of society.

4 The other thing that I think is so important is  
5 some of the retraining that we do of people who are already in  
6 the workforce. And training them for better jobs, giving them  
7 skills so that they can get higher salaries, and so forth.

8 So, those are just a couple of things.

9 CHAIRMAN BURTON: You mentioned some of the  
10 people just come to see what it's like. Are you talking about  
11 younger students, or are you talking about people are just kind  
12 of killing time and taking a couple of courses?

13 MS. UNGER: Well, it's really -- it's all kinds  
14 of students. It's not just one. I mean, it could be somebody  
15 who's leaving high school who really doesn't know what they're  
16 going to do and say, gee, I'll take a couple classes.

17 Could be someone who has a part-time job, and  
18 then goes and takes a class or two, and then, all of a sudden,  
19 gets turned on by their education and said, you know, let's  
20 complete the two years and transfer.

21 So, it isn't one kind of student, I guess.

22 CHAIRMAN BURTON: Senator Johnson.

23 SENATOR JOHNSON: No questions.

24 CHAIRMAN BURTON: Senator Vincent.

25 SENATOR VINCENT: No questions.

26 CHAIRMAN BURTON: Senator Knight.

27 SENATOR KNIGHT: No.

28 CHAIRMAN BURTON: Senator Karnette.





1           SENATOR KARNETTE: I don't think you mentioned  
2 the relationship of permanent faculty to temporary or  
3 part-timers. Do you have a notion about that?

4           MS. UNGER: That's actually something that we're  
5 spending a lot of time working on. And we are really trying to  
6 make sure that the part-time faculty is properly compensated.  
7 And we want to make sure -- so, we're working on studies. I  
8 think there's a CPAC study that's already out in draft form that  
9 we're waiting to see.

10           So, it's a very large problem, and we're spending  
11 a lot of time studying it, and hopefully, come up with some  
12 conclusions this year, because I know it's a problem that's  
13 existed for many years.

14           SENATOR KARNETTE: I think if we had more  
15 full-time faculty, the students would have more counseling as  
16 well.

17           MS. UNGER: Right, although there are some  
18 part-time faculty who are experts in their own field.

19           I'm not disagreeing with you, but I'm saying  
20 there's a role for part-time as well.

21           SENATOR KARNETTE: Oh, sure. I was just  
22 thinking, though, one of the problems that students have is  
23 finding a counselor when they need one. And if they're  
24 part-time, you've got to run to your other job.

25           MS. UNGER: One of the things that we're working  
26 on, though, is, you know, office hours for part-time, because  
27 that has been one of the problems, that the part-time faculty is  
28 only paid for the time they spend in class.



1 SENATOR KARNETTE: Right.

2 MS. UNGER: But they're also compensated for time  
3 spent outside of class, some time spent out of class, but that  
4 helps as well.

5 CHAIRMAN BURTON: Did you bring any family  
6 members with you?

7 MS. UNGER: No, I didn't.

8 CHAIRMAN BURTON: Witnesses in support? Same  
9 cast.

10 MS. MICHAELS: Judy Michaels, California  
11 Federation of Teachers in support of the confirmation.

12 MR. HAWKINS: Again, David Hawkins with the  
13 Community College Faculty Association.

14 And we'd also like to commend Governor Davis for  
15 the quality of appointees he's made to our board. They've  
16 become much more engaged and active in policy development.  
17 We're very appreciative of their contributions.

18 Thank you.

19 CHAIRMAN BURTON: The Governor is the education  
20 governor.

21 SENATOR JOHNSON: I think he might want to  
22 consider appointing someone who'd actually attended a California  
23 community college.

24 Don't answer. It's just a rhetorical question.

25 CHAIRMAN BURTON: Would you like a rhetorical  
26 answer?

27 All right, other witnesses in opposition?

28 Move the nomination. Secretary, call the roll.



1 SECRETARY WEBB: Senator Karnette.

2 SENATOR KARNETTE: Aye.

3 SECRETARY WEBB: Karnette Aye. Senator Knight.

4 SENATOR KNIGHT: Aye.

5 SECRETARY WEBB: Knight Aye. Senator Vincent.

6 SENATOR VINCENT: Aye.

7 SECRETARY WEBB: Vincent Aye. Senator Johnson.

8 SENATOR JOHNSON: Aye.

9 SECRETARY WEBB: Johnson Aye. Senator Burton.

10 CHAIRMAN BURTON: Aye.

11 SECRETARY WEBB: Burton Aye. Five to zero.

12 CHAIRMAN BURTON: Congratulations.

13  
14 [Thereupon this portion of the  
15 Senate Rules Committee hearing was  
16 terminated at approximately 1:56 P.M.]

17 --ooOoo--  
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24<sup>th</sup> day of January, 2001.

  
EVELYN J. MIZAK  
Shorthand Reporter





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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR ED VINCENT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

ANTHONY A. LAMARQUE, Warden  
Salinas Valley State Prison

ROY MABRY, State President  
Association of Black Correctional Workers

MARC BAUTISTA  
California State Employees Association

GLENN DUEGAW, Vice President  
Salinas Valley State Prison Chapter  
Chicano Correctional Workers Association

CHAPTER I  
GENERAL PRINCIPLES

The first principle of the science of education is that the child is a being in development. The child is not a blank slate, but a being who is constantly growing and changing. The second principle is that the child is a social being. The child is born into a world of people and is shaped by the interactions with them. The third principle is that the child is a being with individuality. Each child is unique and has his own way of learning and growing. The fourth principle is that the child is a being with a right to education. Education is a basic right of every child and is essential for his development and well-being. The fifth principle is that the child is a being with a right to a good education. A good education is one that is of high quality and is accessible to all children. The sixth principle is that the child is a being with a right to a safe and healthy environment. A safe and healthy environment is essential for the child's development and well-being. The seventh principle is that the child is a being with a right to a life of dignity and respect. A life of dignity and respect is essential for the child's development and well-being. The eighth principle is that the child is a being with a right to a life of freedom and choice. A life of freedom and choice is essential for the child's development and well-being. The ninth principle is that the child is a being with a right to a life of happiness and fulfillment. A life of happiness and fulfillment is the ultimate goal of education.

CHAPTER II  
THE CHILD

The child is a being in development. The child is not a blank slate, but a being who is constantly growing and changing. The child is a social being. The child is born into a world of people and is shaped by the interactions with them. The child is a being with individuality. Each child is unique and has his own way of learning and growing. The child is a being with a right to education. Education is a basic right of every child and is essential for his development and well-being. The child is a being with a right to a good education. A good education is one that is of high quality and is accessible to all children. The child is a being with a right to a safe and healthy environment. A safe and healthy environment is essential for the child's development and well-being. The child is a being with a right to a life of dignity and respect. A life of dignity and respect is essential for the child's development and well-being. The child is a being with a right to a life of freedom and choice. A life of freedom and choice is essential for the child's development and well-being. The child is a being with a right to a life of happiness and fulfillment. A life of happiness and fulfillment is the ultimate goal of education.

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Anthony A. Lamarque, Warden,  
Salinas Valley State Prison.

We have your official statement as part of the  
record. Maybe you could just highlight how you see your job.

I'd like to compliment you on your statement, and  
how you put both the short-term and long-term goals in both  
public safety, drug interdiction, et cetera.

So, why don't you just briefly comment, and I'm  
sure Members may have some questions.

MR. LAMARQUE: First of all, thank you, Senators,  
for the opportunity to be here today.

My career started 27 years ago as correctional  
officer where I worked through the ranks: sergeant, lieutenant,  
captain, associate warden, chief deputy warden, and for the past  
20 months, the Warden at Salinas Valley State Prison.

I have been fortunate to work through the ranks,  
and having worked almost all custody levels, from minimum,  
medium, to maximum security, to include special housing units  
like protective custody units, secure housing units, ad. seg.  
and management control units.

CHAIRMAN BURTON: I read that -- and I don't know  
what the timeframe was -- that you confiscated a thousand grams  
of marijuana.

I never heard of a gram of marijuana. About two  
joints or something?

MR. LAMARQUE: Oh, no. That's quite a bit.

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1 CHAIRMAN BURTON: A gram of marijuana?

2 MR. LAMARQUE: We've had a thousand, I believe,  
3 grams of marijuana.

4 CHAIRMAN BURTON: I understand that.

5 I read in a book, a gram of cocaine was something  
6 about like that, and a gram of marijuana would be, what, about  
7 five joints, give or take?

8 SENATOR VINCENT: About three.

9 MR. LAMARQUE: Actually, prison joints, it'd  
10 probably be about seven.

11 CHAIRMAN BURTON: And then 85 grams of black tar  
12 heroin.

13 Do you have any idea how that stuff gets in?  
14 There's two schools of thought. Some gets in through the  
15 visitors, and some gets in through employees.

16 MR. LAMARQUE: I would say the majority of the  
17 drugs come through the visiting, and secondary I would say  
18 through packages and stuff like that. Most of the drugs that  
19 you're talking about, we've caught those coming through  
20 packages, large volume through packaging.

21 CHAIRMAN BURTON: Mail or packages that visitors  
22 bring?

23 MR. LAMARQUE: Packages that visitors mail into  
24 the institution.

25 CHAIRMAN BURTON: It would seem they're not too  
26 smart, because they figure you go through the packages, right?

27 MR. LAMARQUE: That's in our favor sometimes,  
28 yes.

# THE HISTORY OF THE

REIGN OF KING CHARLES THE FIRST

BY JOHN BURNET

IN TWO VOLUMES

VOLUME THE FIRST

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CHAIRMAN BURTON: That they aren't too smart.

Would the mail packets like have a legitimate return address, or it could be just a bogus one, then the prisoner says, I don't even know whoever this person is that sent it, or what?

MR. LAMARQUE: Yeah, normally that's what happens, is that the inmates always, or a majority of the time they would say that they had no knowledge of the drug coming in.

But our intelligence has been working pretty good lately, where we actually have some court convictions last year on catching these guys bringing the stuff in.

CHAIRMAN BURTON: The guys bringing it in, yes.

MR. LAMARQUE: Through the package or visiting, because of our monitoring system that we have, and going through the mails, and monitoring the stuff.

CHAIRMAN BURTON: How about, have you had any experience with the employees?

MR. LAMARQUE: Oh, yeah, 27 years.

CHAIRMAN BURTON: And you catch them how?

MR. LAMARQUE: Usually what happens is that the inmate will turn them in, or some other inmate source will say, so-and-so's bringing the stuff in.

CHAIRMAN BURTON: All right, thank you.

You've been at Salinas as the Warden for 20 months.

MR. LAMARQUE: Twenty months, yes.

1. The first part of the document is a letter from the President of the United States to the Congress.

2. The second part is a report from the Secretary of the Treasury on the state of the Union.

3. The third part is a report from the Secretary of the Navy on the state of the Navy.

4. The fourth part is a report from the Secretary of the War on the state of the War.

5. The fifth part is a report from the Secretary of the Interior on the state of the Interior.

6. The sixth part is a report from the Secretary of the Agriculture on the state of the Agriculture.

7. The seventh part is a report from the Secretary of the Commerce on the state of the Commerce.

8. The eighth part is a report from the Secretary of the Education on the state of the Education.

9. The ninth part is a report from the Secretary of the Health on the state of the Health.

10. The tenth part is a report from the Secretary of the Labor on the state of the Labor.

11. The eleventh part is a report from the Secretary of the Finance on the state of the Finance.

12. The twelfth part is a report from the Secretary of the Justice on the state of the Justice.

13. The thirteenth part is a report from the Secretary of the State on the state of the State.

14. The fourteenth part is a report from the Secretary of the War on the state of the War.

15. The fifteenth part is a report from the Secretary of the Navy on the state of the Navy.

16. The sixteenth part is a report from the Secretary of the Interior on the state of the Interior.

17. The seventeenth part is a report from the Secretary of the Agriculture on the state of the Agriculture.

18. The eighteenth part is a report from the Secretary of the Commerce on the state of the Commerce.

19. The nineteenth part is a report from the Secretary of the Education on the state of the Education.

20. The twentieth part is a report from the Secretary of the Health on the state of the Health.

21. The twenty-first part is a report from the Secretary of the Labor on the state of the Labor.

22. The twenty-second part is a report from the Secretary of the Finance on the state of the Finance.

23. The twenty-third part is a report from the Secretary of the Justice on the state of the Justice.

24. The twenty-fourth part is a report from the Secretary of the State on the state of the State.

25. The twenty-fifth part is a report from the Secretary of the War on the state of the War.

26. The twenty-sixth part is a report from the Secretary of the Navy on the state of the Navy.

27. The twenty-seventh part is a report from the Secretary of the Interior on the state of the Interior.

28. The twenty-eighth part is a report from the Secretary of the Agriculture on the state of the Agriculture.

29. The twenty-ninth part is a report from the Secretary of the Commerce on the state of the Commerce.

30. The thirtieth part is a report from the Secretary of the Education on the state of the Education.

1 CHAIRMAN BURTON: And it's at Salinas?

2 MR. LAMARQUE: Salinas Valley, actually it's in  
3 Soledad, next to the Correctional Training Facility.

4 CHAIRMAN BURTON: Got it.

5 Were you there in another capacity before you  
6 were Warden?

7 MR. LAMARQUE: Yeah.

8 CHAIRMAN BURTON: How long have you been there?

9 MR. LAMARQUE: I was at Salinas Valley only as a  
10 Warden for the past 20 months.

11 CHAIRMAN BURTON: So, were you able to see, and  
12 probably even 20 months would do it, but the tremendous  
13 explosion in the cost of housing down there as a result of  
14 pressures from the Silicon Valley, where home builders are now  
15 building there for people there? What kind of impact does that  
16 have on your staff either financially or even morale-wise,  
17 unless they were there for 15 years and bought a house, then  
18 they have trouble buying the house.

19 MR. LAMARQUE: I've been in the area for over 30  
20 years, and I've seen a lot.

21 CHAIRMAN BURTON: Did you buy a lot of land on  
22 the outskirts of town?

23 [Laughter.]

24 MR. LAMARQUE: I'm just a poor island guy.

25 CHAIRMAN BURTON: Has it been a problem with the  
26 ability to get staff there?

27 MR. LAMARQUE: Yes, it has. As a matter of fact,  
28 one of our biggest problems with recruitment right now is, the



1 staff, even staff that have been there for a period of years,  
2 they would go and make an offer on a house, and by evening time,  
3 somebody else goes in and offers more.

4 CHAIRMAN BURTON: What can you do about that,  
5 anything? Not much.

6 MR. LAMARQUE: You know, there's not much to do,  
7 because the area is gradually increasing and increasing. The  
8 only thing that I have done in the past is that I've made  
9 recommendation to giving the staffing for staff living in the  
10 area like that, because the rent is pretty high. A one-bedroom  
11 house or apartment, you can pay anywhere from 1500 on up.

12 CHAIRMAN BURTON: Down there?

13 MR. LAMARQUE: Yes.

14 CHAIRMAN BURTON: Same thing ten years ago would  
15 have been --

16 MR. LAMARQUE: Yeah, ten years ago.

17 CHAIRMAN BURTON: One hundred fifty tops,  
18 probably.

19 MR. LAMARQUE: Probably about three or four  
20 hundred.

21 CHAIRMAN BURTON: That much down there?

22 MR. LAMARQUE: Yeah.

23 CHAIRMAN BURTON: You mention you're exploring  
24 ways to make substance abuse, parenting, and re-entry classes  
25 mandatory for inmates within one year of their release.

26 I think the parenting and re-entry would be good.  
27 I would think that the substance abuse classes are better at the  
28 beginning when they go in rather than wait until the end.





1                   MR. LAMARQUE: One of the things that I think the  
2 Department does a really good job at is that our entire process  
3 through education, vocational, and all the programs that we have  
4 is, we do give the inmates the opportunity to better themselves  
5 and to change, and to go to self-help groups, NA, AA, programs  
6 like that.

7                   The area I was really talking about was to target  
8 these guys a year before they go home and make it -- have a  
9 group of programs to go through prior to them getting out.

10                  CHAIRMAN BURTON: Thank you.

11                  Senator Johnson.

12                  SENATOR JOHNSON: No questions.

13                  CHAIRMAN BURTON: Senator Vincent.

14                  SENATOR VINCENT: No questions.

15                  CHAIRMAN BURTON: Senator Knight. Senator  
16 Karnette.

17                  SENATOR KARNETTE: I actually have one question,  
18 the re-entry program.

19                  What are you trying to do to prevent recidivism?  
20 Do you think these training programs are the best way?

21                  MR. LAMARQUE: Well, Senator, that's something,  
22 again, from the classes, the education programs that we have,  
23 the vocational program where they go out and learn a trade,  
24 through all the special programs that we have, all those will  
25 contribute to that. And the goal is that they have the  
26 opportunity to better themselves before they hit the streets.

27                  And again, if we go back and provide all this  
28 training for them, all the, you know, high schools. They can



1 even get up to a junior college level if they really want to.  
2 All those will contribute to their success once they go outside  
3 into the community.

4 If we can target them a little bit closer, where  
5 it's mandatory that they attend some of those programs that we  
6 have, then I think that will help reduce that.

7 The thing is that for those guys to go out in the  
8 streets and be a good citizen, and stay away from their friends,  
9 start their lives all over again, getting a job, and learn how  
10 to put money in the bank, and stuff like that.

11 SENATOR KARNETTE: I think that's the best way to  
12 go.

13 CHAIRMAN BURTON: Witnesses in support, briefly.

14 MR. MABRY: Chairman Burton, Rules Committee  
15 Members, and Appointments Secretary, my name is Roy Mabry. I'm  
16 the State President for the Association of Black Correctional  
17 Workers.

18 And I'm here today to demonstrate our full  
19 support for confirmation as Warden Lamarque.

20 I'd like to say to you, sir, congratulations and  
21 the best of luck.

22 CHAIRMAN BURTON: You don't have term limits in  
23 your job; do you.

24 [Laughter.]

25 CHAIRMAN BURTON: You've been in for a while.

26 MR. MABRY: There's a group of people trying to  
27 initiate it, but we've been fighting it.

28 CHAIRMAN BURTON: Good for you.



[Laughter.]

MR. BAUTISTA: Good afternoon. My name Marc Bautista. I'm one of the four Civil Service Division officers for the California State Employees Association.

We represent approximately 17,000 of our members out of our 85,000 membership who work at Department of Corrections.

Recently by unanimous vote of the Civil Service Division Council, which is represented by the 55 District Labor Council Presidents throughout the State of California, the four officers and the nine chairs for the bargaining units that CSEA represents unanimously voted to put together a Correctional Institution Committee, and I'm the officer assigned to that committee. Our main role of this committee was to address and identify issues that are unique to our members who work in Department of Corrections.

I'm sure that it is not news to anyone, there are many, many issues that face anyone who works in the Department of Corrections. One of the ways that this committee feels that we can quickly help to identify and resolve many of the issues that our members face day-to-day is to come to these confirmation hearings, find out a little bit about these wardens that are coming up for confirmation, and to, you know, actively participate in these Senate confirmation hearings. I thank you for the opportunity to do that.

We had a two-day tour at Warden Lamarque's facility. They were very, very gracious. It was most professional in the way they allowed us to meet with our

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1 members, find out -- and some of the issues that we faced on  
2 that Friday the 19th, we met the Warden Lamarque and his  
3 different division heads, and we addressed some of the issues of  
4 concerns.

5 Many of the issues really dealt with staffing.  
6 And Warden Lamarque did touch on that, you know, that we have  
7 our members who are unable to, you know, take a job at this  
8 facility because of the cost of living in the area.

9 Warden Lamarque had said that he had requested a  
10 \$500 recruitment retention for everyone who works at that  
11 facility. And we are in full support of that, and we would hope  
12 that he would, you know, re-issue that request for recruitment  
13 and retention, and we would be working with him on whatever  
14 steps we could do to ensure that more members are able to live  
15 in that area.

16 The nursing facility at his institution had 29  
17 positions that were all allocated, and at that time there were 9  
18 nurses there. So, there was only 9 out of 29 nurses. Within  
19 the two days that we were there, two of the nurses had quit.

20 So, it's virtually impossible for, you know, our  
21 members to provide the services to these inmates, health  
22 services, with that type of staffing levels, and many of it  
23 deals with the cost of living there.

24 I was quite encouraged to hear Warden Lamarque's  
25 commitment on providing the very best education possible for the  
26 inmates there. We also, too, believe that that is the best that  
27 we can do for taxpayers -- all of us are taxpayers here -- to  
28 ensure that these inmates have the best opportunity when they go



1 back out into the community to succeed in the community, and  
2 less likely to come back into the prison system.

3 On behalf of the California State Employees  
4 Association, we are here to support Warden Lamarque. We did  
5 talk to the different labor groups, and everyone relies that he  
6 walked into a bad situation, but at least he was willing to stay  
7 there and try to address it, and try to resolve it. So, with  
8 this commitment to work with us, to help make that institution  
9 an institution that, you know, people will be able to -- will  
10 want to come work there, and be able to live in the area, we are  
11 here to provide our full support to Warden Lamarque.

12 CHAIRMAN BURTON: Thank you very much.

13 Other witnesses in support, briefly please. We  
14 have to be on the Floor.

15 MR. DUEGAW: Senator Burton and Senators, my  
16 name is Glenn Duegaw. I am the Vice President of the Chicano  
17 Correctional Workers Association at Salinas Valley State  
18 Prison.

19 On behalf of the Chicano Correctional Workers, we  
20 wish to recommend confirmation of Anthony Lamarque as Warden at  
21 Salinas Valley State Prison.

22 Warden Lamarque has improved the working  
23 conditions at Salinas Valley State Prison. He has promoted  
24 advancement through education, giving everyone an equal  
25 opportunity to learn and to perform to the best of their  
26 abilities.

27 Salinas Valley State Prison is a relatively new  
28 prison with many difficulties. Warden Lamarque has accepted



1 this difficult assignment and has overcome many of the  
2 challenges to operate and improve a prison whose task is  
3 maintaining the custody of some of the toughest criminals  
4 incarcerated in the State of California. You may be aware, it  
5 is a Level Four prison, where you have some of the toughest  
6 criminals in the state.

7 Just recently the other day, we had a person in  
8 classification with a sentence release date of 2508. So, you  
9 can get an idea of how long some of these guys are going to be  
10 there, and some of the difficulties.

11 SENATOR JOHNSON: No term limits in prisons,  
12 either.

13 MR. DUEGAW: We also support a recruitment  
14 allowance because of the high cost of living in the area.

15 CHAIRMAN BURTON: Do you have your family here at  
16 all, Warden?

17 MR. LAMARQUE: Yes, I do, sir.

18 CHAIRMAN BURTON: Would you like to introduce  
19 them.

20 MR. LAMARQUE: Sure.

21 My wife, Genna. My son Matt. My other son could  
22 not make it because he's in college and he has classes. I have  
23 my sister. Actually, both of my sisters are here, Gladys, and  
24 Josleen, she went outside, the baby was crying.

25 CHAIRMAN BURTON: All right.

26 Any witnesses in opposition? Hearing none, moved  
27 by Senator Knight.

28 Call the roll.





1 SECRETARY WEBB: Senator Karnette.

2 SENATOR KARNETTE: Aye.

3 SECRETARY WEBB: Karnette Aye. Senator Knight.

4 SENATOR KNIGHT: Aye.

5 SECRETARY WEBB: Knight Aye. Senator Vincent.

6 SENATOR VINCENT: Aye.

7 SECRETARY WEBB: Vincent Aye. Senator Johnson.

8 SENATOR JOHNSON: Aye.

9 SECRETARY WEBB: Johnson Aye. Senator Burton.

10 CHAIRMAN BURTON: Aye.

11 SECRETARY WEBB: Burton Aye. Five to zero.

12 CHAIRMAN BURTON: Congratulations, Warden.

13 MR. LAMARQUE: Thank you.

14 [Thereupon this portion of the

15 Senate Rules Committee hearing was

16 terminated at approximately 1:55 P.M.]

17 --ooOoo--



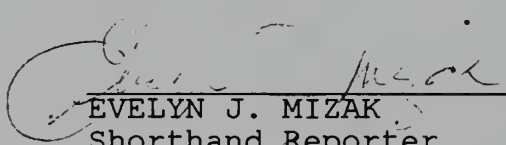
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 1<sup>st</sup> day of February, 2001.

  
EVELYN J. MIZAK  
Shorthand Reporter

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SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR ED VINCENT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

RICHARD T. BAKER, Member  
Public Employment Relations Board

SHERRIE GOLDEN  
California State Employees Association

AARON READ  
PECG, CAPS, CAHP, CDF Firefighters

DENNIS ALEXANDER  
Professional Engineers in California Government

CHRIS VOIGHT  
California Association of Professional Scientists

TIM FRIES  
California Union of Safety Employees





1 ANNE GIESE, Chief Counsel  
2 CSEA

3 ROBERT J. ABERNETHY, Member  
4 State Board of Education

5 SENATOR JACK O'CONNELL

6 ROSE CASSELMAN  
7 Association of California School Administrators

8 SUZANNE TACHENY, Executive Director  
9 California Business for Education Excellence

10 REED HASTINGS, Member  
11 State Board of Education



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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Richard Baker, member of the Public Employment Relations Board.

MR. BAKER: Thank you, Mr. Chairman, Members, Senators.

It's my privilege to be here this afternoon and participate in this confirmation hearing.

At the outset, I don't think it's inappropriate to thank your staff for the courtesy that has been shown to me and, I presume, to the other people that will appear before you: Nettie Sabelhaus and Roger Dillon. I appreciate very much the help that they extended to me.

Just briefly, this appointment really is the culmination of a long career in California public sector labor relations on my part. I started my career way back in 1960, and I have actually been a participant and watched the evolution of the labor laws now that govern public employees in the State of California.

I've had the privilege of representing a number of public groups during that period of time: the engineers, the attorneys, the scientists that work for the State of California. I've also represented high school and college instructors and teachers, and I've had the privilege of working with others in local government.

I remember when there were no laws governing labor relations in the State of California. And I've had the

1 happy opportunity of seeing things progress until we are here  
2 today. And I appreciate this opportunity of being here in front  
3 of you.

4 CHAIRMAN BURTON: Senator Johnson.

5 SENATOR JOHNSON: No questions, sir.

6 CHAIRMAN BURTON: Senator Karnette.

7 SENATOR KARNETTE: No questions.

8 CHAIRMAN BURTON: Senator Knight.

9 SENATOR KNIGHT: No, thank you.

10 CHAIRMAN BURTON: Senator Vincent.

11 SENATOR VINCENT: No questions.

12 CHAIRMAN BURTON: What do you think the major  
13 challenge facing PERB is, looking forward?

14 MR. BAKER: Well, I'd say right now it's  
15 implementing the implementation of jurisdiction of the Meyers-  
16 Miliias-Brown Act. Local government employees are now coming  
17 under the jurisdiction, for labor relations purposes, of PERB,  
18 and our staff is getting ready to bring to us regulations that  
19 will take care of the governance of that jurisdiction.

20 I think that's the challenge that we'll see for  
21 the next year or two years, getting into that. Actually, it's a  
22 new era, I think, for PERB because now all public employees  
23 throughout the state fall under the jurisdiction of PERB. I  
24 think it's something that a lot of us have been looking forward  
25 to for a long time. That's the major challenge which I see.

26 CHAIRMAN BURTON: Is that Ralph Brown or George  
27 Brown?

28 MR. BAKER: George Brown.



1 CHAIRMAN BURTON: You only have three members on  
2 the Board?

3 MR. BAKER: We do. It's a five-member Board. We  
4 currently have three, three appointees.

5 CHAIRMAN BURTON: What carries it; two-to-one, or  
6 three-zero?

7 MR. BAKER: Two-to-one.

8 CHAIRMAN BURTON: So, you can adopt something  
9 with less than a majority of the Board?

10 MR. BAKER: That's true.

11 CHAIRMAN BURTON: Who's Chairman of the Board?

12 MR. BAKER: We have no Chairman. We function  
13 without a Chair.

14 CHAIRMAN BURTON: Is that appointed by the  
15 Governor or elected?

16 MR. BAKER: It's appointed by the Governor. The  
17 Chair is appointed by the Governor.

18 CHAIRMAN BURTON: There's a short board and no  
19 Chair.

20 MR. BAKER: That's correct.

21 SENATOR KARNETTE: Who chairs the meetings? Do  
22 you rotate?

23 MR. BAKER: Well, we have a senior member, and by  
24 consensus, the senior member acts as Chair in our meetings. We  
25 have public meetings about every two months, and Member Amador  
26 is acting as Chair at the current time. Does a good job, too.

27 CHAIRMAN BURTON: Was he appointed by Governor  
28 Wilson or Governor Davis?

1 MR. BAKER: Governor Wilson.

2 CHAIRMAN BURTON: Then you and Whitehead are  
3 Governor Davis?

4 MR. BAKER: That's correct.

5 CHAIRMAN BURTON: So, we have a short board with  
6 no chair with one Republican holdover.

7 MR. BAKER: That's right.

8 CHAIRMAN BURTON: Are you able to function?

9 MR. BAKER: We have been functioning, I think,  
10 very well.

11 Well, we get the decisions out, and I think we're  
12 collegial in what we do, and it's working.

13 CHAIRMAN BURTON: I would think that there might  
14 be room here for a Senate appointee.

15 Speakers in support.

16 I think Sherrie Golden comes first.

17 MR. BAKER: This is my cheering section.

18 MS. GOLDEN: Thank you, Mr. Chairman. Sherrie  
19 Golden, representing the California State Employees Association.

20 We support this nomination for Mr. Baker on the  
21 PERB Board. I have had the pleasure of working with him for  
22 many, many years at CSEA. Not only is he competent and  
23 knowledgeable, and I think he'll be fair, but he is a true  
24 gentleman. And that, in my opinion, is a real plus.

25 Thank you.

26 CHAIRMAN BURTON: And he can do the work of three  
27 men.

28 MS. GOLDEN: Seems to be.

1 CHAIRMAN BURTON: Speaking of which, with all the  
2 public employees that are women, these people are all men.

3 SENATOR KARNETTE: I think the Senate should  
4 appoint somebody.

5 CHAIRMAN BURTON: We'll take note.  
6 Aaron.

7 MR. READ: Thank you.

8 Mr. Chairman and Members, Aaron Read.

9 It's a pleasure to be here. You'll hear from two  
10 of my clients, the Professional Engineers in California  
11 Government and the Scientists are here to speak for themselves.  
12 I'll add to that the Highway Patrol Association and the  
13 Firefighters.

14 I have known Dick Baker for 32 years. In many  
15 ways, he was a mentor to me, one of the reasons I got in this  
16 business 32 years ago. There is nobody that has a higher  
17 credibility, and honesty, and integrity than Dick Baker, and I'm  
18 pleased to be here to support him.

19 I'm also pleased that his son has been on my  
20 staff for 11 years, and he's equally trained by his dad.

21 MR. ALEXANDER: I'm Dennis Alexander,  
22 representing Professional Engineers in California Government, a  
23 10,000-member association.

24 We're in full support of the nomination of  
25 Mr. Baker. He probably could do the job all by himself over  
26 there.

27 MR. VOIGHT: Good afternoon. Chris Voight on  
28 behalf of the California Association of Professional Scientists.

1           Dick represented CAPS for about 15 years. I  
2 worked for Dick for about 13 of those years, and there's no  
3 better choice for the job. We heartily endorse him.

4           CHAIRMAN BURTON: What do the members of your  
5 organization do?

6           MR. VOIGHT: They are the scientists that staff  
7 the state agencies at Fish and Game, Food and Ag, Toxics, 230  
8 different classifications.

9           MR. FRIES: Tim Fries on behalf of the California  
10 Union of Safety Employees.

11           We'd just like to echo our support of Mr. Baker.

12           MS. GIESE: Anne Giese, Chief Counsel,  
13 California State Employees Association. We represent nine  
14 bargaining units of state employees, and four bargaining units  
15 of state university employees.

16           We are heartily in support of the nomination

17           CHAIRMAN BURTON: Thank you.

18           Do you have any family you want to introduce,  
19 Dick?

20           MR. BAKER: I do. I have my wife, Francis, and  
21 my son, Steve, who works with Aaron. I hope he finds an honest  
22 job.

23           [Laughter.]

24           CHAIRMAN BURTON: Witnesses in opposition?  
25 Hearing none, moved by Senator Johnson. Call the roll.

26           SECRETARY WEBB: Senator Karnette.

27           SENATOR KARNETTE: Aye.

28           SECRETARY WEBB: Karnette Aye. Senator Knight.



1 SENATOR KNIGHT: Aye.

2 SECRETARY WEBB: Knight Aye. Senator Vincent.

3 SENATOR VINCENT: Aye.

4 SECRETARY WEBB: Vincent Aye. Senator Johnson.

5 SENATOR JOHNSON: Aye.

6 SECRETARY WEBB: Johnson Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Five to zero.

9 CHAIRMAN BURTON: Congratulations.

10 MR. BAKER: Thank you very much.

11 CHAIRMAN BURTON: Robert Abernethy, Member,

12 State Board of Ed.

13 Senator O'Connell.

14 SENATOR O'CONNELL: Thanks, Mr. Chairman.

15 Just briefly I want to introduce my friend, Bob  
16 Abernethy, who's a member of the State Board of Education.

17 Bob's a very successful business person, owns  
18 self-storage companies throughout much of California. A  
19 graduate of Johns Hopkins University, has been a trustee there.  
20 Has a Masters from Harvard School of Business.

21 He's given a great deal of time to public service  
22 towards the last decade or so. Has developed expertise in both  
23 transportation as well as education.

24 And lastly, just last month, he put together an  
25 all-day seminar for several of us to learn in his office some of  
26 the more complex issues surrounding education, brought some  
27 experts in from here, from the Bay Area, from Southern  
28 California all day.

1                   If there's not an answer that he doesn't know the  
2 question to, he's not reluctant to seek those responses and is  
3 continuing to be an outstanding member of the State Board of  
4 Education.

5                   CHAIRMAN BURTON: Thank you.

6                   Bob.

7                   MR. ABERNETHY: Thank you.

8                   Mr. Chairman, Senators, it's my privilege to be  
9 here before you.

10                  I want to commend you all on the tremendous  
11 amount of service that's been rendered to the State of  
12 California and all the people in the state by each of you  
13 throughout your Senate service.

14                  I'm delighted to have the opportunity to be  
15 before you seeking confirmation to serve, and continue to serve,  
16 on the State Board of Education.

17                  I have written you a letter which, I think, each  
18 of you have.

19                  CHAIRMAN BURTON: We have that as part of the  
20 record.

21                  MR. ABERNETHY: It talks about my views on  
22 accountability, and assessment, and curriculum framework, and  
23 instructional materials, and professional development, and  
24 facilities. I won't bother to repeat the information here that  
25 I've given you, but I present myself for your questions.

26                  Thank you.

27                  CHAIRMAN BURTON: Thank you.

28                  These are questions that we will ask both you and



1 Mr. Hastings.

2 The 2000 Academic Performance Index reports  
3 clearly identified the lowest performing schools, their  
4 progress, and the information about their students.

5 Do you know whether or not the Board is utilizing  
6 any of this data as they project things that they should be  
7 doing?

8 MR. ABERNETHY: Yes, and we're beginning to  
9 increasingly make utilization of the data. We're still in the  
10 process of trying to work out some of the technical problems in  
11 that area.

12 CHAIRMAN BURTON: Senator Johnson.

13 SENATOR JOHNSON: No questions, sir.

14 CHAIRMAN BURTON: Senator Karnette.

15 SENATOR KARNETTE: There is a question that I'd  
16 like to ask about balancing your state role in K-12 with the  
17 role of the school districts and local communities. How do you  
18 see that?

19 MR. ABERNETHY: I believe the local schools are  
20 where the action is. It's the job of the local school boards  
21 and school organizations to support those schools. It's the  
22 role of the State Board of Education to support the local  
23 districts and do what we can to help the local districts help  
24 their schools achieve good performance on the part of the  
25 students and raise our standing amongst the states in the United  
26 States from where we are to a higher level.

27 SENATOR KARNETTE: Do you ever see any conflict  
28 there, though? Do you have conflicts in that area?

1 MR. ABERNETHY: In any large bureaucratic  
2 organization there are always conflicts, Senator.

3 There are roles. We sort through them. We have  
4 agenda items before us, and we try to do our best to look at the  
5 pluses and minuses of them. Inevitably, there will be  
6 conflicts.

7 A good example is an area that wants to move from  
8 one school district to another. Many times you find conflicts  
9 and controversy about that, and sometimes it's a tough job to  
10 figure out, you know, what one should do about that.

11 CHAIRMAN BURTON: Senator Knight.

12 SENATOR KNIGHT: Thank you, Mr. Chairman.

13 Mr. Baker, there's been --

14 CHAIRMAN BURTON: This is Abernethy. We already  
15 confirmed Baker.

16 SENATOR KNIGHT: Oh gee whiz, I missed it.

17 [Laughter.]

18 SENATOR KNIGHT: Mr. Abernethy, I'm sorry, my  
19 apologies. I got the names mixed up there.

20 In any event, there's been a great deal of talk,  
21 discussion, about testing within the school system in order to  
22 assess the performance of the schools and the students, and  
23 accountability, in essence. And we're giving more and more  
24 tests.

25 But from what I saw today in Education Committee  
26 meeting, California's still -- they almost made it on the chart,  
27 as low as they could get. It was at the bottom.

28 Is there anything that we're doing or

1 contemplating, any additional mechanisms by which we can  
2 evaluate the performance of our schools and students, other  
3 than, you know, tests that say true or false, or multiple  
4 choice?

5 MR. ABERNETHY: We're continuing to try to test  
6 our tests, and try to evaluate how effectively they do operate.  
7 It's an ongoing process. Some of the testing programs have  
8 begun only a year or two ago, so we have a lot of work to do to  
9 try to fine-tune the content of those examinations and to figure  
10 out how to use the content.

11 SENATOR KNIGHT: Nobody is the thinking about  
12 trying to come up with some subjective mechanism, other than  
13 being able to give a test, take the numbers, and say these  
14 numbers fit in here?

15 MR. ABERNETHY: There's certain portions of  
16 certain of the tests that involve right examples and that aren't  
17 just strictly true-false questions.

18 CHAIRMAN BURTON: Senator Vincent.

19 SENATOR VINCENT: I don't want to cause any  
20 confusion. I just want to maintain it.

21 CHAIRMAN BURTON: Are there witnesses in support.

22 One of the things that I'd like to do is, you  
23 know, basically what we still find out is that students from  
24 low-income families are not matching the test improvement with  
25 other people.

26 Has the Board they done anything, or can they  
27 start doing something to focus on helping the students in the  
28 lowest 20 percent of the schools?

1                   We have primarily, at least in this  
2 administration, it seems to me, we're focusing on the best of  
3 the best, which is really wonderful, but if we don't do  
4 something to bring up those on the bottom, those on the bottom  
5 will be breaking into the homes of the best of the best in  
6 another ten years.

7                   MR. ABERNETHY: It's one of my personal focuses  
8 and objectives, to try to cut down on the number of students  
9 that finish their education in California being unable to pick  
10 up a copy of the Los Angeles Times and read it, put it down, and  
11 stand up and tell a friend what they've read, and then to sit  
12 down and write a coherent letter to their parents about what  
13 they've read.

14                  SENATOR JOHNSON: Ideally to the editor.

15                               [Laughter.]

16                  MR. ABERNETHY: I would be satisfied if it were  
17 to anybody and coherent. Maybe I should choose the Orange  
18 County Register.

19                               [Laughter.]

20                  CHAIRMAN BURTON: Then they'd definitely want to  
21 write a letter to the editor.

22                               [Laughter.]

23                  MR. ABERNETHY: And also do addition,  
24 multiplication, subtraction and division, and percentages and  
25 fractions accurately and quickly.

26                  I think we need to make sure that no matter when  
27 a student is finishing, or choosing to finish, their education,  
28 that they have these basic skills, because they're what's



1 necessary to get gainful employment. And if they don't have the  
2 skills, they wind up being -- either relying on the state or  
3 someone else for support to live for a lifetime, or they engage  
4 in occupations that statutes prohibit.

5 I think it's important that we do successfully  
6 fund these schools and the teachers, and develop teacher  
7 training effectively that will allow us to achieve that  
8 objective.

9 CHAIRMAN BURTON: In support.

10 MS. CASSELMAN: Rose Casselman with the  
11 Association of School Administrators.

12 We've had the opportunity to interview each of  
13 the nominees, and we've had the opportunity to observe them over  
14 the last year. And we are satisfied that they are open to  
15 listening to our organization and have the best interests of  
16 students in mind, and we support both Mr. Abernethy and  
17 Mr. Hastings.

18 CHAIRMAN BURTON: What's the relationship now  
19 between the Board and the Superintendent?

20 MR. ABERNETHY: I think the relationship is a  
21 good one. At all of our Board meetings, the Superintendent is  
22 present. There's a good exchange of ideas and dialogue, and an  
23 ability to make suggestions both ways.

24 CHAIRMAN BURTON: I'm sure that in three years  
25 it'll even be better.

26 Did you have any family that came up with you,  
27 Bob?

28 MR. ABERNETHY: No.

1 CHAIRMAN BURTON: Any witnesses in opposition?  
2 You were in support, ma'am? I'm sorry.

3 MS. TACHENY: Suzanne Tacheny, Executive  
4 Director for California Business for Education Excellence.

5 We support both of the nominees who are before  
6 you today to the State Board of Education. Both are -- have  
7 brought common sense and pragmatic problem solving from a  
8 business perspective to the Board and have been terrific Board  
9 members.

10 We attend most of the Board meetings and have  
11 been very impressed with them, so we put our endorsement behind  
12 them.

13 CHAIRMAN BURTON: Thank you.

14 Moved by Senator Johnson. Call the roll.

15 SECRETARY WEBB: Senator Karnette.

16 SENATOR KARNETTE: Aye.

17 SECRETARY WEBB: Karnette Aye. Senator Knight.

18 SENATOR KNIGHT: Aye.

19 SECRETARY WEBB: Knight Aye. Senator Vincent.

20 SENATOR VINCENT: Aye.

21 SECRETARY WEBB: Vincent Aye. Senator Johnson.

22 SENATOR JOHNSON: Aye.

23 SECRETARY WEBB: Johnson Aye. Senator Burton.

24 CHAIRMAN BURTON: Aye.

25 SECRETARY WEBB: Burton Aye. Five to zero.

26 CHAIRMAN BURTON: Bob, congratulations.

27 MR. ABERNETHY: Thank you, Senators.

28 CHAIRMAN BURTON: Senator O'Connell.



1                   SENATOR O'CONNELL: Reed Hastings is a very  
2 successful entrepreneur from the northern California areas. He  
3 created and founded high tech firms that have been very  
4 successful. Currently CEO of NETFLIX over in the Bay Area.

5                   He was teacher in the Peace Corps for a number of  
6 years. He was totally committed to making it easier for school  
7 districts to pass local bond measures, and I've had the pleasure  
8 of working with him on that issue for the last several years.

9                   Also totally committed and responsible for the  
10 current charter school expansion that we've had in the state.  
11 Strong proponent for public education. Very articulate. A  
12 common sense direction for the Board, and is currently serving  
13 as the Chairperson of the State Board of Education.

14                  I wanted to introduce Mr. Hastings to the  
15 Committee here today.

16                  CHAIRMAN BURTON: Reed.

17                  MR. HASTINGS: Thank you, Senators. It's a great  
18 pleasure to be here.

19                  In addition to the statement of policy and  
20 responding to your questions represented on the written record,  
21 both Bob Abernethy and I spent a lot of time trying to work with  
22 the business community in terms of, everybody knows how  
23 important the public school system is, but not everybody  
24 understands how complex it is, how many different students and  
25 different needs there are throughout the system.

26                  I think one of the great things about putting on  
27 some nontraditional State Board Members like us is that we're  
28 also partially ambassadors out to draw in the rest of the

1 business community in terms of supporting the important work  
2 that public education does.

3 CHAIRMAN BURTON: Questions, Senator Johnson.

4 SENATOR JOHNSON: I see that you got a graduate  
5 degree from Stanford.

6 MR. HASTINGS: That's correct.

7 SENATOR JOHNSON: Could you explain to me how  
8 UCLA could lose by 29 points to Cal and come back 48 hours later  
9 and defeat Stanford.

10 [Laughter.]

11 CHAIRMAN BURTON: Steve Lavin is a survivor.

12 [Laughter.]

13 SENATOR JOHNSON: Let the witness speak for  
14 himself, please, Mr. Chairman.

15 MR. HASTINGS: At Stanford a lot of people are  
16 too busy studying.

17 [Laughter.]

18 SENATOR JOHNSON: No questions.

19 CHAIRMAN BURTON: Senator Karnette.

20 SENATOR KARNETTE: I have the same question that  
21 I asked Bob Abernethy, about balancing the state role in K-12  
22 policy making, and the role of the local districts versus the  
23 state, and so forth.

24 MR. HASTINGS: Well, I think like everybody, you  
25 know, supports the role of local education. And what I've often  
26 found is that we all support the role of local education, but  
27 then we think things like class size reduction is one of the  
28 best programs that passed. It's sort of directly opposed to

1 local control.

2                   So, I try to think about it not so much is it the  
3 state bureaucracy or the local bureaucracy, because there's a  
4 balance there that's used for both. I try to think about it as  
5 the relationship between the student and her or his child --  
6 sorry, the teacher and her or his student.

7                   And, you know, fundamentally, schools are a  
8 network of relationships between the teachers and the pupils.  
9 We in Sacramento can pass all the laws we want, and unless we  
10 affect the relationship between the teacher and his or her  
11 pupils, it doesn't change anything.

12                   Many of our programs have had difficulty in  
13 changing that relationship. Think about class size reduction.  
14 It's been a very successful program because it allowed each  
15 teacher to spend more time with their pupils.

16                   And the lens that I try to look at each of these  
17 programs through is, how does it enhance or support those  
18 relationships, again, between the teacher and his or her pupils.

19                   SENATOR JOHNSON: Mr. Chairman, just briefly.

20                   I've had the opportunity to meet with the  
21 nominee, and so on, and I certainly intend to support him.

22                   I don't mean to get into a lengthy, philosophical  
23 thing, and I agree with everything that you've said, but every  
24 study that I've ever seen or heard about says that the single  
25 most important factor in any child's success in school is the  
26 child's parents' attitude toward education.

27                   So, we can talk about a lot of programs aimed at  
28 helping kids, and so on, but unless somehow we, in that process,



1 reach the parents and have them interested in their child  
2 succeeding in school, and seeing to it that at night, at home,  
3 they're working with that kid and encourage them to succeed, it  
4 won't work.

5 I apologize, Mr. Chairman. I don't mean to get  
6 into a philosophical side, but I think that's very, very  
7 important.

8 MR. HASTINGS: I completely agree with you, and  
9 to the degree that we can do things legislatively or otherwise  
10 to draw parents in to support those relationships, there's no  
11 question that that's a stronger influence than the one the  
12 teacher has.

13 And in some cases, where the parents aren't  
14 providing the level of support that you or I might, is where we  
15 really try to work hard to give the kid as fair a chance as we  
16 can. But that's not in any way to exclude the parents at all.

17 CHAIRMAN BURTON: One of the questions that I  
18 asked Mr. Abernethy was, basically I'm quite concerned with  
19 focusing more on bringing the bottom up than bringing the top  
20 farther over the top.

21 I have a great theory about education being  
22 mobility tickets up and out of economic ghettos, social ghettos  
23 whatever it is.

24 What can the State Board do to focus on that, to  
25 try to lift them? You can argue, although I think it's a  
26 fallacy, that economically, if there's a lot of money on top,  
27 it'll trickle down. If you could have 72 A students, none of  
28 that's going to trickle down to the F students. We have to do

1 something to focus there to help.

2 And whether it's as Senator Johnson said, either  
3 helping encourage the parents, only with some of these people,  
4 you know, the parents, unfortunately, aren't going to be that  
5 much help, so whether it's providing an alternative stimulus for  
6 them, an ability to do stuff, but what can the State Board do?

7 MR. HASTINGS: I think there's several things  
8 that we have done. In particular, if you look at the  
9 construction of the STAR results and the Academic Performance  
10 Index, it's heavily weighted towards improvement at the low end.  
11 And so, we've got these explicit weighting factors so that  
12 improvement at the low end gets more points in terms of the  
13 rewards than improvement at the high end. So, it's a very  
14 conscious signalling mechanism to school districts.

15 The second thing we do is, we don't just say a  
16 school can succeed as a whole. That is the average of all  
17 students. That's not acceptable, and that doesn't get you the  
18 rewards and results. And so, we spent a lot of time designing  
19 the API so that each of the major subgroups has to show  
20 substantial improvement.

21 So, on the measurement side, I think there's been  
22 a lot of work to carefully measure, because often what you  
23 measure for is what you get. And so, as you design the  
24 measurement system, you really want to set up these incentives  
25 for significant improvement at the low end.

26 But in addition, there's the capacity side. So,  
27 testing, I think of it like accounting. So, it tells you where  
28 you are, but it doesn't of itself fix anything. And it, you

1 know, provides some sunshine, and it provides some vehicles for  
2 change and demanding change, but the things that change the  
3 school are things like the capacity programs, the teacher  
4 training that the Governor's put in this year's budget, which is  
5 unprecedented in California's history.

6 Most teachers -- well, there's a lot of variety.  
7 So, you know, there's a small minority that will pick up all the  
8 new techniques all on their own. They're just tremendously  
9 ambitious and aggressive. And there's a small minority that  
10 doesn't care. You could do all the training you want, you're  
11 not going to get through to them. And then, most teachers, by  
12 and large, want to do a good job, but, you know, they were  
13 trained 10-20 years ago in a range of techniques, especially in  
14 reading, that we know don't work very well. And that's where  
15 the teacher training makes such a difference.

16 So, that's really only a small part of the State  
17 Board's view. Mostly it's the budgetary process that puts those  
18 in place. And where we contribute to that is things like the  
19 standards alignment, helping those.

20 But I think those are probably the most important  
21 of the capacity building programs to help schools do well on  
22 this accountability index.

23 CHAIRMAN BURTON: So, "Read the first chapter and  
24 be prepared to answer the eight questions at the end," doesn't  
25 make it any more?

26 MR. HASTINGS: That's correct. It won't get you  
27 by.

28 CHAIRMAN BURTON: That's why I never became a



1 teacher. I thought that was it, because you had to have lesson  
2 plans. And here I am.

3 Senator Vincent.

4 SENATOR VINCENT: You know, I've been to so many  
5 Education meetings with Senator Vasconcellos, and some of the  
6 stuff I've heard, I've heard 20 years ago. It seems to be the  
7 same thing; nothing changes.

8 I don't know what the Board can do about it, but  
9 we keep talking about teacher training, but it doesn't happen.  
10 As a matter of fact, half of the people who are teachers are in  
11 the Legislature now because, well, pay is one big thing.

12 I'll just say one thing. If you keep on doing  
13 what you've been doing, you get the same old thing you've been  
14 getting. And that's going to continue to happen.

15 I hope that there's no opposition to your  
16 confirmation, and there shouldn't be, but I hope that you will  
17 be a beacon to do some of the things that Senator Burton was  
18 saying.

19 There's some kids at the bottom, at the bottom,  
20 you know, and those kids are still at the bottom, and they're  
21 going to stay at the bottom until we make some changes up here.

22 Thank you.

23 CHAIRMAN BURTON: Senator Knight.

24 SENATOR KNIGHT: Thank you, Mr. Chairman.

25 Senator Vincent and I were in a meeting this  
26 morning, along with Senator O'Connell, and heard a lot about --

27 SENATOR KARNETTE: I was there, too. Just  
28 because I don't sound like a teacher all the time --

1           SENATOR KNIGHT: I guess you should have sat up  
2 in the chair.

3           Anyway, we had two teachers in there. They're  
4 indicating that they can't teach in the kind of environment that  
5 Senator Burton was talking about, in trying to get the  
6 low-income people and low achievers up. That they've got to  
7 have a master's degree at least, and go through specific  
8 training programs in order to survive in that environment.

9           Is that the opinion of the Board as well?

10          MR. HASTINGS: Well, I should speak for myself,  
11 probably, in that.

12          I think additional training, you know, will help  
13 teachers be successful in a wider range of environments, but  
14 I've also seen some of the most successful teachers who don't  
15 have the formal training. I think we've all seen that in our  
16 lives with who's been mentoring us or other things.

17          So we try to provide, in my view, structures so  
18 that teachers can get the help that they want, and so that they  
19 can have a broader repertoire of techniques. But a lot of what  
20 they learn is in the classroom from fellow teachers, from their  
21 principal.

22          I guess, on balance, I'd have to say I'm not sure  
23 I agree with the view that you've got to have a master's degree  
24 to teach inner city.

25          SENATOR KNIGHT: The impression was that they're  
26 moving in that direction, and that was what they thought would  
27 be one of the solutions to the various problems.

28          MR. HASTINGS: Well --

1           SENATOR KNIGHT: I guess I don't understand what  
2 we're teaching in the undergraduate classes in trying to prepare  
3 or educate a teacher. And if there is a requirement for a  
4 master's degree or higher education, then so be it.

5           MR. HASTINGS: I think the core issue that you  
6 have in the inner city teaching is, most people who teach in the  
7 inner city, after a couple of years, when they've got the  
8 seniority, they find a way to transfer out, either to a more  
9 stable school in the district, or maybe it's a more satisfying  
10 professional environment, or maybe where they feel safer, or  
11 they transfer districts, because now they've got the experience  
12 and ability to do that.

13           So, it's not easy to teach in inner city  
14 conditions. What we've got is, we don't have any way of  
15 compensating those people, you know, more than other people, for  
16 example. We don't have any way of -- you know, it's purely the  
17 psychic rewards, you know, of doing great work.

18           And that works for many of our teachers, but as  
19 we've clearly seen, not enough. If you look at the skew of  
20 certified-uncertified, or experienced-unexperienced, and you  
21 look at inner city schools, by and large, you see a pretty big  
22 skew.

23           Now, you know, next week you'll be hearing from  
24 Nancy Ichinaga, who has succeeded wildly. And in her view, she  
25 wants the teachers before they've gotten polluted by all that  
26 education because she's going to do it, you know, on the job,  
27 and she's got a model. And, you know, she's the state's best  
28 example of someone with, you know, tough demographics and tough



1 conditions that had extraordinary results. I mean, her API  
2 scores are at eight, which is higher than many, many surrounding  
3 districts. The STAR results are near 760.

4 And in her view, it's not been, you know, I want  
5 the masters from such-and-such a school. It's, give me someone  
6 who's hungry, give me someone who's thoughtful, and I can teach  
7 them the rest.

8 SENATOR KNIGHT: There was another interesting  
9 thing in the meeting this morning. They pictured a teacher, 86  
10 years old. She was dressed like a lady. And they gave an  
11 excerpt of her classroom. And the first thing she did was  
12 establish the discipline. And I'm not saying, you will do this,  
13 but she did establish discipline by saying, "You're sitting up  
14 straight. Put your feet under your desk and ready to go to  
15 work."

16 Discipline in the classroom, I think -- I don't  
17 know how we got -- well, I do know how we got rid of it; the  
18 ACLU helped us.

19 But I think we need to get class discipline back  
20 in the classroom. I don't know how you do that, though.

21 CHAIRMAN BURTON: There's still a chance to  
22 introduce Mickey Conroy's paddling bill, Pete.

23 [Laughter.]

24 SENATOR KNIGHT: No, I don't want that one.

25 CHAIRMAN BURTON: Senator Johnson wanted to know  
26 if you had any family you wanted to introduce.

27 MR. HASTINGS: I don't, thank you.

28 CHAIRMAN BURTON: Witnesses in support, you've

1 spoken earlier for both candidates.

2 Any witnesses in opposition?

3 Moved by Senator Johnson. Call the roll.

4 SECRETARY WEBB: Senator Karnette.

5 SENATOR KARNETTE: Aye.

6 SECRETARY WEBB: Karnette Aye. Senator Knight.

7 SENATOR KNIGHT: Aye.

8 SECRETARY WEBB: Knight Aye. Senator Vincent.

9 SENATOR VINCENT: Aye.

10 SECRETARY WEBB: Vincent Aye. Senator Johnson.

11 SENATOR JOHNSON: Aye.

12 SECRETARY WEBB: Johnson Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Five to zero.

15 CHAIRMAN BURTON: Congratulations.

16 [Thereupon this portion of the  
17 Senate Rules Committee hearing was  
18 terminated at approximately 2:12 P.M.]

19 --ooOoo--  
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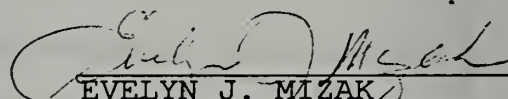
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8<sup>th</sup> day of February, 2001.

  
EVELYN J. MIZAK  
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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 14, 2001

1:37 P.M.

Reported by:

Evelyn J. Mizak  
Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

MEMBER ABSENT

SENATOR ED VINCENT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

BILL BAILEY, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

MAUREEN P. EARLY, Deputy Director  
Employment Development Department

NANCY ICHINAGA, Member  
State Board of Education

KERRY MAZZONI  
Secretary for Education

GARY HART  
CSU Institute for Education Reform

SUZANNE TACHENY, Executive Director  
California Business for Education Excellence



KAREN STAPF WALTERS  
Association of California School Administrators

MARIA S. QUEZADA, Ph.D., Executive Director  
California Association for Bilingual Education

MARTHA DIAZ  
California Association for Bilingual Education

GLORIA INZUNZA-FRANCO, Parent  
Paramount High School

ROMELIA WORKNEH  
Parents for Unity

CAROL GUANDIQUE  
Padres por Unidad

PETER SCHILLA  
Californians Together



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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Maureen Early, Deputy Director of EDD.

She is a personal friend of mine. I served in Congress with her father, but don't let that influence anybody. It didn't influence the Governor.

Go ahead.

MS. EARLY: My name is Maureen Patricia Early, and I'm here today. Thank you very much for hearing my case, Senate Pro Tem John Burton and other distinguished Members of the Senate Rules Committee.

I'm not really sure what you want me to say.

SENATOR JOHNSON: Why don't you thank the undistinguished Members.

[Laughter.]

MS. EARLY: I'd also like to thank the undistinguished Members.

SENATOR JOHNSON: Move the nomination.

[Laughter.]

MS. EARLY: I might as well thank the Academy while I'm here as well.

CHAIRMAN BURTON: Did you hear about Joe Mokeley.

MS. EARLY: No.

CHAIRMAN BURTON: I guess he resigned. He's got real bad leukemia.

MS. EARLY: Oh, dear God.

CHAIRMAN BURTON: Do you have any family here?

1 Have you got those eight brothers and sisters?

2 MS. EARLY: Unfortunately, I didn't have advanced  
3 notice to get the whole family out, but they would have come had  
4 they been given it.

5 CHAIRMAN BURTON: Any witnesses in opposition?

6 Do you have questions, anybody?

7 SENATOR KARNETTE: I don't have a question, but I  
8 did talk to her earlier.

9 I think people ought to know how good you are  
10 with helping people get jobs. Tell them a little bit about  
11 that.

12 MS. EARLY: I could just take a minute to let you  
13 know what I've been doing since I took the position of Executive  
14 Director of Business Relations in September of 1999.

15 I work closely with Director Michael Bernick and  
16 Operations Branch to essentially look at the State of California  
17 and the individuals who face multiple barriers to employment.  
18 There are a lot of individuals out there, many of whom have  
19 disabilities, both physical, emotional, psychological. Young  
20 people with learning disabilities, and other factions of the  
21 population who face challenges relating to training and  
22 education who would like to work but don't have the tools.

23 And EDD has amazing programs in the field, which  
24 is the main reason why I love my job. There are programs within  
25 job service that EDD funds which essentially help people find  
26 good paying jobs.

27 It's exciting, and I'd be happy to get more  
28 information to any of you that would be interested. And

1 hopefully in the future, when I contact you to assist us with  
2 funding, you'll be happy to assist us.

3 CHAIRMAN BURTON: I'll move the nomination. Call  
4 the roll.

5 Any opposition? Hearing none.

6 SECRETARY WEBB: Senator Karnette.

7 SENATOR KARNETTE: Aye.

8 SECRETARY WEBB: Karnette Aye. Senator Knight.

9 SENATOR KNIGHT: Aye.

10 SECRETARY WEBB: Knight Aye. Senator Johnson.

11 SENATOR JOHNSON: Aye.

12 SECRETARY WEBB: Johnson Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Four to zero.

15 MS. EARLY: Thank you.

16 CHAIRMAN BURTON: Congratulations.

17 Call the old man and give him the good news.

18 MS. EARLY: I will.

19 CHAIRMAN BURTON: Next, Nancy Ichinaga, State  
20 Board of Ed.

21 MS. MAZZONI: Thank you, Mr. Pro Tem and Members.

22 I'd like to introduce Nancy Ichinaga to you.

23 Nancy is a retired principal of Bennett-Kew Elementary School in  
24 Inglewood, and Nancy has been a dedicated educator for over 26  
25 years. Her former school is comprised of a majority of Latino  
26 and African-American students whose families are from poor and  
27 immigrant backgrounds.

28 Nancy is committed to ensuring that every child



1 is successful in school. She has succeeded by providing a  
2 quality educational environment where the expectation is set  
3 early in the primary grades that all students can learn and  
4 succeed academically.

5 Her school ranked eight on the Academic  
6 Performance Index. And her limited English-speaking students  
7 have received primary language support and have achieved English  
8 proficiency far above the statewide average.

9 The Governor and I strongly support her  
10 confirmation as a member of the State Board of Education.

11 CHAIRMAN BURTON: Senator Vincent cannot be here  
12 today because of eye surgery, but he has sent a letter in  
13 support of Nancy Ichinaga. He knows her. She taught within his  
14 district where he was a Member of the Assembly, Senator and  
15 Mayor. He strongly recommends her, testifying to the  
16 effectiveness with students at her schools and in the community.  
17 Were he here, he would vote Aye.

18 You can go ahead.

19 MS. ICHINAGA: What do you want me to say?

20 CHAIRMAN BURTON: I don't know.

21 MS. ICHINAGA: I'll give you a little bit of my  
22 background.

23 I came to California after I graduated from the  
24 University of Hawaii in 1953. I've been here ever since, and  
25 I've been in California education for almost more than 40  
26 years. I was principal for 25 years.

27 And I was raised on a sugar plantation in Hawaii,  
28 and my primary language was Japanese and pidgeon English. I



1 started school in first grade more than 60 years ago, and I  
2 remember being very excited of finally being able to go to  
3 school to learn good English.

4 I was educated bilingually. I went to Japanese  
5 school in the afternoon, and I went to English school all day  
6 long, and I became fully bilingual. I'm very proud of being  
7 bilingual.

8 My children are me 60 years later. My parents  
9 are my parents 50 years later. My parents never learned  
10 English.

11 And I believe that all children can learn, and my  
12 whole professional life has been dedicated to proving this, and  
13 I think I have.

14 CHAIRMAN BURTON: Senator Johnson.

15 SENATOR JOHNSON: No questions at this time.

16 CHAIRMAN BURTON: Senator Knight.

17 SENATOR KNIGHT: No questions.

18 CHAIRMAN BURTON: Senator Karnette.

19 SENATOR KARNETTE: I was impressed that there's a  
20 letter here from the staff of your school supporting what you  
21 did with the teachers. I know a principal is judged, to me, by  
22 the teachers often times, and they were very supportive of what  
23 you did, and that impresses me.

24 CHAIRMAN BURTON: Witnesses in support.

25 SENATOR HART: Mr. Chairman, Members, I'm Gary  
26 Hart.

27 I just wanted to say as a former Member of the  
28 Senate, and having served in the Davis administration, that I

1 think Nancy Ichinaga brings some excellent qualities to the  
2 State Board of Education, really some unique qualifications,  
3 because she has been in the trenches for the last 20 or 30  
4 years. And I think it's particularly important to have someone  
5 with recent school site experience serving on the State Board of  
6 Education.

7 As Secretary Mazzoni pointed out, her school has  
8 done outstandingly in terms of student academic performance. I  
9 first heard about Nancy's school by reading a front page article  
10 in the Los Angeles Times that was documenting how this  
11 low-income school was off the charts in terms of student  
12 academic performance.

13 And her school is right near LAX, and one of the  
14 things that I used to do when I was in the Legislature and  
15 served with the Governor also was go to her school and have an  
16 opportunity to visit with her and with the staff at the school.

17 And Senator Karnette made reference to the  
18 letter, and one thing I just wanted to share with you, in  
19 talking to some of the teachers there at the school, some of the  
20 teachers who are middle-class from other parts of Los Angeles  
21 County have their own children attend that school. They are so  
22 committed to what occurs in that school in terms of excellence  
23 that they are willing to have their own children attend the  
24 school.

25 So, she's a remarkable individual and brings, I  
26 think, great credibility to the State Board of Education.

27 MS. TACHENY: I'm Suzanne Tacheny, Executive  
28 Director of California Business for Education Excellence. We're

1 a coalition of major businesses and business organizations  
2 working to support educational improvement.

3 We strongly support Nancy Ichinaga for the State  
4 Board of Education.

5 There are those in education who come from what I  
6 call a sense of misplaced compassion, where they would say if a  
7 child comes from a low-income neighborhood, or a minority  
8 family, or an immigrant family, that we just shouldn't expect as  
9 much, because they bring additional challenges. Ms. Ichinaga's  
10 experience proves that high expectations, standards aligned  
11 instruction, and insistent leadership can do for those children,  
12 along with state support and other kinds of things we ought to  
13 be doing for those schools, but that those kids can and should  
14 be held to the highest standards because that's what matters  
15 most for their future.

16 When people say those schools can't achieve,  
17 people point to Ms. Ichinaga's school as the example that proves  
18 them wrong. And her role on the State Board of Education is  
19 vital for that reason. She is an exemplar and should be  
20 honored for that.

21 We attend, our organization attends Board  
22 meetings and see often the contribution she brings as a  
23 principal to put the policies that are brought to the Board in a  
24 context of common sense and saying, you know, "This is how it  
25 impacts the classroom; this is how it impacts the teacher," and  
26 not just talking about it the way we normally talk about it from  
27 the state.

28 So, we urge you to approve her nomination. Thank

1       you.

2                   MS. STAPF WALTERS: Karen Stapf Walters,  
3       Association of California School Administrators.

4                   We're here in support of her nomination. Our  
5       board had the opportunity to meet with her and interview her.  
6       From that experience, we feel that she will be very open to  
7       hearing other's ideas. And we also think her field experience  
8       as a site principal will be invaluable as an addition to the  
9       State Board. So, we're here in support.

10                  Thank you.

11                  CHAIRMAN BURTON: I wonder if you could comment  
12       on the allegations that you're hostile towards mathematics.

13                  MS. ICHINAGA: I'm hostile to mathematics?

14                  I am not hostile to mathematics.

15                  My first, second, and third graders scored over  
16       80 percentile in the Stanford 9 this past year and last year.  
17       My fourth and fifth graders scored over 60 percentile on the  
18       Stanford 9.

19                  CHAIRMAN BURTON: Your "views on mathematics are  
20       detrimental to students. If math wars are to end, we need to  
21       consider a broader, more balanced approach to mathematics."

22                  Do you know to which they're referring?

23                  MS. ICHINAGA: Yes. There are two factions in  
24       public education or in education today. One side believes that  
25       the children need basic skills. The other side believes  
26       otherwise, that they need to be given a broad understanding of  
27       math, not necessarily knowledge of basic skills.

28                  I believe that the children need basic skills in



1 order to succeed at their age and later on when they go into  
2 higher education.

3 CHAIRMAN BURTON: Witnesses in opposition.

4 SENATOR KARNETTE: Senator Burton, could I  
5 comment.

6 CHAIRMAN BURTON: Yes, please.

7 SENATOR KARNETTE: But you're not against them  
8 learning the broader ramifications of mathematics?

9 MS. ICHINAGA: I don't think the two should be  
10 separated. As we teach basic skills, we teach them to  
11 understand math in general.

12 CHAIRMAN BURTON: Witnesses in opposition.

13 DR. QUEZADA: Good afternoon. My name is  
14 Dr. Maria Quezada. I'm the Executive Director for the  
15 California Association for Bilingual Education.

16 I come here today on behalf of the California  
17 Association for Bilingual Education. I represent a statewide  
18 organization with over 7,000 members. These members are  
19 teachers, administrators, parents, para-educators, and other  
20 community members who believe that students and their families  
21 have a right to an equitable education.

22 Our vision is biliteracy for all students. We  
23 believe that students need an education that prepares them more  
24 fully for our highly technical and ever changing world.  
25 Students come to our schools with diverse educational needs,  
26 fields, challenges, languages and backgrounds. English language  
27 learners come to school with a wide range of English language  
28 skills and educational levels.

1           Our schools, therefore, must be prepared to offer  
2 a wide range of program options to meet the instructional needs  
3 of an increasing number of English language learner students in  
4 California schools.

5           It is because of this that CABE opposes the  
6 nomination of Nancy Ichinaga. Ms. Ichinaga has gone on record  
7 to say that she vigorously opposes any other program other than  
8 sheltered English immersion for English language learners. I  
9 have personally heard her testify at a meeting of the State  
10 Board of Education where she stated that even when bilingual  
11 programs were mandated under AB 1329 and AB 507, that she was  
12 proud to say that she did not follow the law. She only provided  
13 English instruction to her English language learners at her  
14 school.

15           We find this blatant disregard regard for the law  
16 unsettling. As citizens, do we have the right to selectively  
17 choose the laws that we uphold? As a State Board member, will  
18 she only uphold those regulations and guidelines that she agrees  
19 with, and flagrantly oppose or push for the elimination of  
20 policies she is against?

21           If she is so rigid in her views against any  
22 program other than sheltered English, then she even goes against  
23 the State Board testimony in Validia G, when they argued for the  
24 flexibility found in Proposition 227, and when they repeatedly  
25 emphasized that bilingual education was, in fact, not banned  
26 under Prop. 227. They also conceded that not all children will  
27 best be served by sheltered or structured English immersion  
28 mandated under Prop. 227..



1           The program at her school may have worked for her  
2 students, but we don't find that kind of success in other  
3 schools in the state, even in other schools in her own district  
4 that only use English for instruction.

5           We need schools that offer students a wide range  
6 of programs. If parents want sheltered English immersion, then  
7 it is their right to choose this for their children. However,  
8 if parents want alternative bilingual programs, these should  
9 also be made available to them.

10           Even the State Board in their testimony in  
11 Validia emphasized that the waiver provision would serve as a  
12 safety net for those children who would not benefit from the  
13 mandated sheltered English program.

14           I have been to many schools where parents truly  
15 have a choice. They can choose between bilingual instruction,  
16 dual language instruction programs, sheltered English programs,  
17 and mainstream English programs, all in one school. Their  
18 participation in bilingual programs is not having a detrimental  
19 affect. In fact, they are surpassing their API growth targets  
20 at a much higher rate than similar schools that only offer  
21 English instruction.

22           CABE believes that if Ms. Ichinaga is confirmed  
23 to serve as a member for the State Board of Education, the  
24 rights of parents will be highly jeopardized. It is our strong  
25 belief that she will not allow any choice other than the program  
26 she feels is effective, even though this program has no research  
27 base to substantiate its effectiveness.

28           We are in the third year of implementation of

1 Proposition 227. Close to 900 days have passed, and the great  
2 increase of students who now know English because they are  
3 taught in English has not happened as promised. English  
4 language learners were to become fluent English speakers in only  
5 180 days in sheltered English programs. Last year, however,  
6 only six percent were redesignated to fluent English status,  
7 just like before Proposition 227, a 94 percent failure rate,  
8 even though over 88 percent of our English language learners are  
9 in English-only programs.

10 I work as an evaluator for a two-way bilingual  
11 school in Orange County. At this school, like others, parents  
12 who first chose sheltered English immersion are not seeing the  
13 program's success and progress for their children. They are  
14 asking now to have their children put into the dual language  
15 program that I supervise.

16 Parents are being denied their right to have an  
17 alternative bilingual program for their children in many schools  
18 and districts in California.

19 CHAIRMAN BURTON: This is all her fault?

20 DR. QUEZADA: Her inflexibility to allow  
21 choices --

22 CHAIRMAN BURTON: And it's all her fault?

23 DR. QUEZADA: It's not so much her fault, but she  
24 will be sitting a position where she has the impact.

25 CHAIRMAN BURTON: She has been sitting in a  
26 position.

27 DR. QUEZADA: In a position that will impact  
28 those choices for parents because of her strong belief in only

1 one way.

2 CHAIRMAN BURTON: How many members on the State  
3 Board?

4 DR. QUEZADA: There's nine members -- eleven  
5 members.

6 CHAIRMAN BURTON: Go ahead.

7 DR. QUEZADA: Again, under the First Appellate  
8 District in McLaughlin versus the State Board of Education, the  
9 court stressed that Proposition 227, best program choice with  
10 parents of LEP students, not with school districts.

11 In Ms. Ichinaga's former district, parents are  
12 told that they do not have this type of program. They only have  
13 sheltered English programs available to them. This is contrary  
14 to the provision for waivers found in Proposition 227.

15 So, if Ms. Ichinaga strongly supports Proposition  
16 227, she should not be selective of the sections of the law she  
17 chooses to uphold. Again, in the State Board brief on Prop.  
18 227, it states that if the program does not meet the student's  
19 needs, Prop. 227 allows for placement in another method of  
20 instruction. Parents under 227 have the right to choose an  
21 alternative bilingual education program --

22 SENATOR JOHNSON: Can I get some indication of  
23 how much longer your statement is?

24 DR. QUEZADA: It's two minutes, not even two  
25 minutes. I can summarize it.

26 SENATOR JOHNSON: I would appreciate it if you  
27 would. There are other witnesses.

28 Either you can take your two minutes and eat into

1 their time --

2 DR. QUEZADA: I will finish just by saying that  
3 not only are parents not being allowed to choose programs that  
4 they feel are beneficial to their children, teachers in our  
5 field are also being -- leaving the profession because they are  
6 being -- working in the fear of having a lawsuit brought against  
7 them, and knowing that their training and their skills are not  
8 being utilized for the kinds of programs that are beneficial to  
9 children.

10 Our case is that we want parents to have a  
11 choice, but if these programs are the ones that they choose,  
12 that they will also be able to select. In our view,  
13 Ms's. Ichinaga inflexibility for offering or wanting that type  
14 of program, other types of program, would not make her a member  
15 that is open to other kinds of programs in the state.

16 Thank you.

17 SENATOR JOHNSON: Next witness.

18 SENATOR KNIGHT: Mr. Chairman, could I have a  
19 question of the witness?

20 SENATOR JOHNSON: Certainly.

21 SENATOR KNIGHT: I would assume that you're in  
22 favor of vouchers, that you would like to have that choice?

23 DR. QUEZADA: I am not in favor of vouchers.

24 SENATOR KNIGHT: Choice is only in certain areas.

25 DR. QUEZADA: Choice is to have parents choose  
26 the programming. You can have that kind of choice in public  
27 schools.

28 SENATOR JOHNSON: So long as they offer a program



1 that you agree with.

2 Can we hear from the next witness. And I request  
3 that you keep it brief as possible and don't be repetitive.

4 MS. DIAZ: Good afternoon. My name is Martha  
5 Diaz.

6 You have heard testimony from Ms. Ichinaga and  
7 her supporters as to why she should be confirmed to the State  
8 Board of Education. They include the fact that she is an  
9 immigrant; she speaks Japanese as well as English; and that she  
10 has a successful track record in educating her students as  
11 principal of Bennett-Kew.

12 What has not been stated are the following facts.  
13 Prop. 227 did not ban alternative programs, also known as  
14 bilingual education programs. There are currently 187,832  
15 students enrolled in bilingual education programs throughout the  
16 state.

17 Recent preliminary studies have been published  
18 documenting that schools with bilingual education programs are  
19 performing as well or better than schools with English immersion  
20 programs. The State Board of Education, in its defense and  
21 support of Prop. 227, acknowledged that, quote, "Not all  
22 children will be best served by sheltered or structured English  
23 immersion as required by Prop. 227." The State Board of  
24 Education also acknowledged their reliance on the proposition's  
25 waiver provisions and stated that these provisions would serve  
26 as a safety net for those children who would not benefit from  
27 the mandated sheltered English immersion program.

28 Ms. Ichinaga's on public record as not obeying

1 the Chacon-Mosconi Act of 1976, and is on public record as a  
2 strident opponent of bilingual education.

3 Ms. Ichinaga, on behalf of former Governor  
4 Wilson, filed a declaration in support of Proposition 227. In  
5 her letters to Members of the Senate Rules Committee,  
6 Ms. Ichinaga fails to answer critical questions --

7 SENATOR JOHNSON: Is that a disqualifier for  
8 serving on the State Board of Education?

9 MS. DIAZ: In my opinion, yes, it is.

10 SENATOR JOHNSON: Is someone who voted for 227  
11 then unfit to serve?

12 MS. DIAZ: Can I finish my statement?

13 SENATOR JOHNSON: You can answer the question.

14 MS. DIAZ: In my opinion, Prop. 227 is not the  
15 appropriate instructional method for --

16 SENATOR JOHNSON: The question was, you've said  
17 that someone who filed a declaration on behalf of 227 is not  
18 qualified to serve in your opinion.

19 The next question was, is someone who voted for  
20 227 unqualified to serve on the State Board of Education? You  
21 can answer it yes or no.

22 MS. DIAZ: Is someone who voted for Prop. 227  
23 unqualified? I believe that that person would not be able to  
24 represent adequately those children who are in alternative  
25 education programs, yes.

26 SENATOR JOHNSON: Would then, therefore, the only  
27 person qualified be someone who didn't vote on 227?

28 MS. DIAZ: Again, my opinion is that an



1 individual who voted for Prop. 227 did not necessarily act on  
2 behalf of the best interests of the students.

3 SENATOR JOHNSON: They're therefore unqualified?

4 MS. DIAZ: They should not serve as a  
5 representative of all students --

6 SENATOR JOHNSON: I think we've gotten very  
7 clearly what your opinion is, thank you.

8 Can we hear from next the witness, please.

9 MS. INZUNZA-FRANCO: Honorable Chairman, who's  
10 not here, and Members of the Rules Committee, my name is Gloria  
11 Inzunza-Franco. I'm a parent from Paramount High School. I'm  
12 here representing the parents that are from that high school. I  
13 live in the City of Lakewood, in Ms. Karnette's district. I'm  
14 happy to be here.

15 As I said, I'm representing the parents from the  
16 Parents Center at the high school, and it is our concern that  
17 parental choice, or right to choose alternative programs, for  
18 example, bilingual education programs, will be greatly  
19 jeopardized if Ms. Nancy Ichinaga is confirmed to the State  
20 Board of Education.

21 We are a group of parents who would like our  
22 children to be instructed in bilingual education programs;  
23 however, our school district does not respect this parental  
24 choice. Our school district currently provides only two types  
25 of programs: the English language mainstream program, and the  
26 structured English immersion program. This is counter to the  
27 provisions under Prop. 227 and counter to the Attorney General's  
28 opinion that states that a school district may not deny a

1 parental request for an individual waiver on the sole ground  
2 that the district has no alternative program.

3 In light of Ms. Ichinaga's support of only  
4 sheltered English immersion, and her strong opposition to  
5 bilingual education programs, we as parents believe she will not  
6 represent our interests if confirmed to the State Board of  
7 Education. We believe that Ms. Ichinaga will not be able to  
8 see beyond her experience in her own school.

9 It is for these reasons that I urge you not to  
10 confirm Ms. Ichinaga to the State Board of Education.

11 SENATOR JOHNSON: Thank you very much, ma'am.

12 Next witness.

13 MS. WORKNEH: Mine might be a little longer than  
14 hers.

15 My name is Romelia Workneh, born in California,  
16 raised in California. I'm from Parents for Unity, a nonprofit  
17 organization which trains parents in leadership development,  
18 letting them know that they can participate in the education of  
19 their children, and letting them know what is school reform, to  
20 empower the parents to participate.

21 I'm here to address you, the Senate Rules  
22 Committee, to encourage you to oppose the appointment of  
23 Ms. Nancy Ichinaga. My main reason is accountability. She is  
24 not accountable to our constituents, which is evident in her  
25 support of a system which continually operates without regard  
26 to Supreme Court orders or laws mandatory -- mandated on our  
27 state books. She is not accountable to the community which  
28 produces the children and recognizes our own needs.

1           She does not support that we have a choice, a  
2           fundamental right in each of our lives, essence of our  
3           individual quality of life.

4           She supports 227, which was a blow to bilingual  
5           education. We should have embraced bilingual education and  
6           improved it to the extent -- to our larger community. One of  
7           the better schools in Los Angeles, California is Cohinga  
8           Elementary. They didn't have a bilingual program; they had a  
9           dual language program. They had the highest test scores in the  
10          state.

11          The other component of 227 which gives parents  
12          choice, which is my argument, which has occurred in schools --  
13          the schools choosing, we need someone unlike Nancy Ichinaga to  
14          support parents' right to choose. We need to -- that means we  
15          are opposed to one who would not enforce implementation of laws  
16          and support parents' rights. We needs a friend here.

17          We are opposed to Ms. Nancy Ichinaga, who ignored  
18          the mandates of Chacon-Mosconi Act. We urge you to vote no to  
19          appointing Ms. Ichinaga, to allow us to enlighten our community,  
20          have choice.

21          Parents are a knowledgeable stakeholder --

22          SENATOR JOHNSON: Excuse me, ma'am. Senator  
23          Knight has a question.

24          SENATOR KNIGHT: I'll ask you the same question  
25          as I asked the other --

26          MS. WORKNEH: Can I finish my thing first?

27          SENATOR KNIGHT: I'd like to ask the question  
28          because it's fresh, and you just mentioned it.

1                   Would you then support parent's choice with a  
2 voucher program?

3                   MS. WORKNEH: I absolutely support parent's  
4 choice. We have choice now. We have open enrollment --

5                   SENATOR KNIGHT: Would you support a choice with  
6 a voucher program giving parents choice?

7                   MS. WORKNEH: No, because I think the voucher  
8 program is a cancellation of public education.

9                   The first year you're going to say, "Yes, we're  
10 going to give you \$5,000," and you're going to -- we can choose  
11 whatever school we want to. And the reality is, you could not  
12 go to a private education because if everybody has \$5,000,  
13 what's going to happen to the tuition in the public -- in the  
14 private schools? They'll raise it up because they can't  
15 accommodate all those children.

16                   And then, the next year, you're going to say,  
17 "Okay, we got your voucher for \$5,000, but we're having a  
18 problem with the budget --"

19                   SENATOR KNIGHT: Thank you for telling me how the  
20 voucher system works.

21                   MS. WORKNEH: I know how it's going to work.  
22 Well, you asked me a question, and then you're going to say,  
23 "Parents, you need to pull the money out of your pocket because  
24 the state doesn't have it." I don't support that kind of  
25 education.

26                   SENATOR JOHNSON: We're getting rather far  
27 afield, and number two, I think we have begun to see a clear and  
28 consistent theme in the opposition, so I would ask if you could



1 conclude your testimony.

2 MS. WORKNEH: Okay, and what is my theme, sir?

3 SENATOR JOHNSON: You're clearly saying that in  
4 your view, the nominee is not qualified because she would not be  
5 a friend. In the past, expressions of opposition to 227 means  
6 that she's hostile to choice at the local level, and  
7 implementing the court decisions relative to 227.

8 We have been listening to all the witnesses, what  
9 you've had to say.

10 MS. WORKNEH: Mine is more broad than just 227.  
11 We have choices in a lot of programs.

12 SENATOR JOHNSON: We'll give you another minute  
13 to conclude your testimony, and then any further testimony in  
14 opposition you may submit it in writing, and it will be made  
15 available to Members prior to a vote on the Floor.

16 Go ahead, ma'am.

17 MS. WORKNEH: We have parents in L.A. Unified  
18 have filed a complaint about the L.A. Unified School District  
19 because we have laws on the books, and we have people that are  
20 in place that don't implement the laws, okay. And right now, we  
21 are in moderation about that.

22 What I'm saying is, we need people who are going  
23 to be representing our interests. In other words, the interests  
24 of the people. We have laws on the books. Support the laws  
25 that we have really pushed for as a nation, and not just as  
26 individuals.

27 Thank you so much.

28 SENATOR JOHNSON: Other witnesses? Just

1 identify yourselves for record and submit any testimony you have  
2 in writing. It will be made available to all the Members prior  
3 to any Floor votes on this nomination.

4 MS. GUANDIQUE: [Spoken in Spanish]. Listen to  
5 me one minute. [Continues in Spanish].

6 SENATOR JOHNSON: You may submit your testimony  
7 in writing. It will be incorporated in the record.

8 MS. GUANDIQUE: Okay, thank you.

9 SENATOR JOHNSON: Sir.

10 MR. SCHILLA: Mr. Chairman, my name Peter  
11 Schilla, and I represent a coalition called Californians  
12 Together.

13 And we are opposed to this nomination.

14 SENATOR JOHNSON: Thank you very much, sir.

15 Any further questions?

16 SENATOR KARNETTE: Well, I would like to ask  
17 Ms. Ichinaga, if the community wanted bilingual education, and  
18 you were the principal, how would you handle that?

19 MS. ICHINAGA: If a community wanted, when this  
20 bill passed, we were supposed to have all the parents decide how  
21 they wanted their children to be taught, in Spanish or in  
22 English.

23 We did that. And our parents overwhelmingly  
24 said, "You teach them English. We'll do the Spanish at home."

25 SENATOR KARNETTE: There have been some  
26 allegations that people are afraid you would not follow the  
27 law.

28 Now, you are on the Board of Education now. And



1 if you are confirmed, will you tell us you will follow the law?

2 MS. ICHINAGA: Will I follow the law? I won't  
3 break the law.

4 SENATOR KARNETTE: Well, that's following it.

5 I just wanted to make that real clear. It sounds  
6 kind of like a courtroom, I guess. But I just wanted to be  
7 sure, because some people are afraid that you might.

8 MS. ICHINAGA: I was reminded that I take an oath  
9 to follow the law, and I take my oath very seriously.

10 SENATOR KARNETTE: Thank you.

11 CHAIRMAN BURTON: Any other questions.

12 SENATOR KNIGHT: Move the nomination.

13 CHAIRMAN BURTON: Moved by Senator Knight. Call  
14 the roll.

15 I think I probably ought to declare myself that,  
16 I guess, somehow, somewhere, Nancy Ichinaga knew my former  
17 father-in-law in the State of Hawaii. I mean, if you grew up on  
18 a sugar plantation, you probably did know him, because he  
19 organized the sugar workers.

20 Call the roll.

21 SECRETARY WEBB: Senator Karnette.

22 SENATOR KARNETTE: Aye.

23 SECRETARY WEBB: Karnette Aye. Senator Knight.

24 SENATOR KNIGHT: Aye.

25 SECRETARY WEBB: Knight Aye. Senator Johnson.

26 SENATOR JOHNSON: Aye.

27 SECRETARY WEBB: Johnson Aye. Senator Burton.

28 CHAIRMAN BURTON: Aye.

1 SECRETARY WEBB: Burton Aye. Four to zero.

2 CHAIRMAN BURTON: Thank you and congratulations.

3 [Thereupon this portion of the

4 Senate Rules Committee hearing was

5 terminated at approximately 2:30 P.M.]

6 --ooOoo--

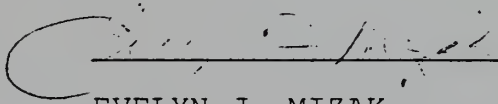
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15<sup>th</sup> day of February, 2001.

  
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

MEMBERS ABSENT

SENATOR ED VINCENT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CAROLYN ROBINSON, Consultant to SENATOR VINCENT

ALSO PRESENT

STEVEN H. BRACKETT, Member  
Youthful Offender Parole Board

ROBERT PRESLEY, Secretary  
Youth and Adult Correctional Agency

JAMES E. VOGTS  
L.A. County Professional Peace Officers  
International Union of Police Associations

CLANCY FARIA, President  
Police Officers Research Association of California (PORAC)

AARON READ  
PORAC





1 LYNNE S. COFFIN  
2 State Public Defender

3 GARY C. RYNEARSON, Member  
4 State Board of Forestry and Fire Protection

5 SENATOR WES CHESBRO

6 MARK PAWLICKI  
7 Simpson Timber Company

8 MARK RENTZ  
9 California Forestry Association

10 ERIC CARLESON  
11 California Licensed Foresters Association

12 ALEX RATE  
13 Sierra Club



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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Youthful Offender Parole Board,  
Steven Brackett.

Senator Kuehl.

SENATOR KUEHL: Thank you, Mr. Chairman and  
Members.

I simply came here to speak very, very, very,  
very, very strongly in favor of Mr. Brackett's appointment.  
I've known him. He was a resident of Santa Monica, worked with  
the Santa Monica Police Department. That's how I first met him,  
not in his official capacity, of course.

I think he would be a fine addition to the Board,  
a fair-minded man, always interested in justice, a fine law  
enforcement official, and one that I think exemplifies all of  
the attributes that you might want in an appointee.

CHAIRMAN BURTON: Thank you, Senator Kuehl.  
Go ahead.

MR. BRACKETT: Thank you very much. I'm honored  
to be here before you today. I'm appearing for review and  
confirmation vote as a Board Member for the California Youthful  
Offender Parole Board.

I'd first like to introduce my family, if I can.  
My wife. Next to her is George, my son Matthew, and my daughter  
is the camera bug running around behind you.

Listing my experiences and qualifications, as  
well as my goals as a Board Member of YOPB are the subject of  
documents I previously submitted to you. Therefore, I will now

1 focus on a brief overview of such issues so that you may ask  
2 questions or get into issues that you may desire.

3 As my good friend, and I'm honored to have her  
4 with me here today, Senator Kuehl pointed out, I have been a  
5 police officer for 32 years, including assignments working with  
6 both successful and troubled youth.

7 I've been involved in policy making as well as  
8 supervisory positions relating to youth and youth programs, and  
9 I've also served on various POST Commission task forces in this  
10 state.

11 As a member of the California JCs, I helped  
12 community ties be strengthened and supported youth programs.  
13 I've actively served in my church and my community, including  
14 four years as a school board member and chair of our school  
15 board.

16 I've served on my local union for 27 years, eight  
17 terms of which were chair. I've been a PORAC member for 32  
18 years, including numerous elected and appointed positions. My  
19 local union is a charter member of CCLEA and SCALE, and I've  
20 also served the California Police Memorial Foundation.

21 Over the past year, I have served on the YOPB  
22 Board. I've absorbed as much knowledge and skills as I can as a  
23 Board member, and yet clearly, day by day, learn more. It's an  
24 exciting time for YOPB and the Youth Authority, with new  
25 leadership, more energy. The latest budget includes even a  
26 little more funding so that we can look at programs. I'm just  
27 really looking forward to the opportunity of continuing  
28 involvement in that process.

1 I can go over briefly my goals, if you'd like, or  
2 we can rest at that.

3 CHAIRMAN BURTON: Go for them.

4 MR. BRACKETT: All right. Certainly, I will  
5 continue to become more aware of the various aspects of my new  
6 position and continue to provide input and independent analysis  
7 to the Youth Authority.

8 I'll be vigilant at hearings, especially noting  
9 whether or not wards are receiving the programming that is  
10 ordered, and whether or not that programming is meeting the  
11 needs of their individual case.

12 Another area I'm very interested in is continuing  
13 to strengthen the relationship between YOPB and the Youth  
14 Authority, as well as respecting and holding as a high priority  
15 my duty to include important criteria as well as public safety  
16 as critical factors in making that difficult decision to parole  
17 somebody back into society.

18 An area that I hope some of the new funding that  
19 we have can be devoted to is specifically to look at programming  
20 both within institutions and through parole services for female  
21 wards. As you know, they make up about five percent of the  
22 Youth Authority population.

23 I also see it's important for us to bring from  
24 Board hearings issues directly to the leadership of the Youth  
25 Authority. I think it's a very unique aspect that the YOPB is  
26 able to fulfill and accomplish by cutting through bureaucracy,  
27 and discussing with Mr. Harper and his staff the issues that we  
28 see that are worthy of examination.

1           And lastly, seeking a successful compromise as to  
2   how to deal with those offenders that have dual commitments both  
3   through the Youth Authority as well as the California Department  
4   of Corrections. There's a quagmire of problems related to how  
5   to deal successfully with those people and implementing our goal  
6   of shared mandate of providing for public safety.

7           With that, if you have any questions, I'll be  
8   happy to respond to them.

9           CHAIRMAN BURTON: When a youthful offender comes  
10   before the Board, what factors do you individually or the Board  
11   consider in determining what treatment is needed while person's  
12   either inside or out on parole?

13          MR. BRACKETT: When they come before us for an  
14   initial hearing, that's their first hearing. Happens within two  
15   months, roughly, of coming to the Youth Authority through court  
16   orders.

17          We have an analysis done by staff of their  
18   background, their commitment offenses, and any other issues that  
19   we think can help us determine the available programming needs  
20   for them. Certainly we look to see if they were themselves, for  
21   instance, sexually abused. Then we want to get them into sexual  
22   abuse program.

23          Tragically, as you know, all too often those same  
24   offenders may be in custody for sexual offenses, and we have  
25   another program, a Sexual Offender Program, so we would in that  
26   case put them into both those programs.

27          Victim Awareness, Gang Awareness if gangs is a  
28   parts of their background.



1                   Drug addiction, we have drug programs for them;  
2                   an intensified program or an informal program, depending upon  
3                   the depth of their addiction problems.

4                   CHAIRMAN BURTON: Do you have enough slots for  
5                   everybody that needs to get into a drug program?

6                   MR. BRACKETT: I don't know that we will ever  
7                   have enough slots. If you have a program, there's always the  
8                   size of the class, so to speak.

9                   We certainly get them through the programs as  
10                  best we can based upon available funds and resources to us.

11                  CHAIRMAN BURTON: Well, you could have an N.A.  
12                  program, an A.A. program, a P.A. program. Doesn't cost anything  
13                  except coffees, cookies, and a room.

14                  MR. BRACKETT: In all due respect to those people  
15                  that are on the streets on their own, they're not under parole  
16                  supervision or court mandates, those programs may well be  
17                  successful and doing a lion's share of the work that they need.

18                  We find many times with our offenders, as they  
19                  gain parole, there are so many other factors that they're still  
20                  trying to deal with.

21                  CHAIRMAN BURTON: I'm talking about while they're  
22                  inside, not when they're outside.

23                  MR. BRACKETT: While they're inside, our drug  
24                  programs are run very effectively. I believe they're much more  
25                  in depth, you would find, than A.A. or N.A. programs.

26                  We don't serve cookies and coffee to them. We  
27                  do, however, have them get very deeply involved in their own  
28                  drug addiction, and what goals they can set. Similar, perhaps,

1 to A.A. or N.A., but you'll find much more intensified. They  
2 turn in written projects and the like.

3 CHAIRMAN BURTON: And anybody that needs it has a  
4 slot inside?

5 MR. BRACKETT: Anybody that needs a drug  
6 rehabilitation --

7 CHAIRMAN BURTON: If somebody's got a drug  
8 program, they need drug rehabilitation or education while  
9 they're inside, is there a slot for them in all the programs?

10 MR. BRACKETT: We Board-order it, and as I said  
11 before, one of my continuing goals is to constantly monitor at  
12 hearings whether or not the Board ordered programming is, in  
13 fact, being provided to them.

14 CHAIRMAN BURTON: Do you know for a fact whether  
15 or not that the wards who the Board determines should be going  
16 through, for want of a better word, a chemical dependency  
17 program, are the slots available for them? Are there some that  
18 they can't get in?

19 MR. BRACKETT: I don't know personally of any  
20 programs that they've been denied getting into.

21 Now, you do look at severity of situations. They  
22 may have a sex offender program that seems to be more burning  
23 than their drug addiction problem, so they may not start both  
24 programs simultaneously. We will prioritize, depending upon  
25 their needs.

26 CHAIRMAN BURTON: So, your answer is, to your  
27 knowledge, you don't know anyone who has been denied treatment  
28 because of lack of space in the program?



1                   MR. BRACKETT: I don't know of anyone denied  
2 treatment for that reason. Certainly there are those who have  
3 refused to program.

4                   CHAIRMAN BURTON: Then they aren't denied it.  
5 They just don't do it.

6                   MR. BRACKETT: Correct, sir. We've had some that  
7 are disciplinary problems, and they can't be put into a  
8 classroom atmosphere. They will continue to act up and  
9 victimize other people. So, there are other factors that many  
10 times impact whether or not they get into a program.

11                  CHAIRMAN BURTON: But not for lack of slots.

12                  MR. BRACKETT: I'm unaware of us denying them  
13 access to programs due to lack of slots.

14                  CHAIRMAN BURTON: You said one of your missions  
15 is to make sure that when treatment is prescribed by the Board  
16 that you follow-up to see that, basically, the treatment's been  
17 provided.

18                  MR. BRACKETT: Yes, sir.

19                  CHAIRMAN BURTON: And what if it hasn't been?  
20 What's the Board's ability to do anything?

21                  MR. BRACKETT: We bring it to attention of the  
22 supervisor that day, of the staff members involved in the  
23 programming for the given ward, and we have the ability to talk  
24 to the superintendent or the assistant superintendent of the  
25 institution and bring it to their attention.

26                  We also notify our headquarters here in  
27 Sacramento, and they, too, will monitor and see to it that the  
28 problem is addressed.

1 CHAIRMAN BURTON: So, there is adequate  
2 coordination between the Board and the CYA that you can go to  
3 the head of the CYA and say, either in this institution, or in  
4 this instance, they're not providing the treatment that we  
5 thought was important for the ward?

6 MR. BRACKETT: If that's what's necessary.  
7 Mr. Harper has made himself very much available to our Board  
8 members. I know of a Board member that has called Mr. Harper  
9 directly. We generally try to handle it, though, through  
10 routine quarterly meetings that we have with him. We agendaize  
11 the items, and we bring it up before Mr. Harper and his staff  
12 and let them address it.

13 We then get follow-up at our subsequent meetings  
14 from them.

15 CHAIRMAN BURTON: One of the problems recently  
16 that came up during policy committee hearings and budget  
17 hearings were that the PCDs were always set above the guidelines  
18 that were put in for them.

19 One of the arguments says, well, it was the  
20 severity of the offense, which, as I understand the mission of  
21 the Board, as opposed to the Department of Corrections, is  
22 trying to rehabilitate these people.

23 But even with minor offenses, it seems that the  
24 parole consideration dates go beyond the deadline.

25 Do you have any comment you can make on that?

26 MR. BRACKETT: Certainly a parole consideration  
27 date is set by regulations. Those regulations include the  
28 ability for us to modify it a bit if that's appropriate for the

1 individual's case. But we have to look at each case on a  
2 case-by-case basis. If a youth has been involved in a death --

3 CHAIRMAN BURTON: No, we're talking about less  
4 serious offenses. We're not talking about death.

5 MR. BRACKETT: All right. If one youth has  
6 committed a burglary, we can't just look at 459 of the Penal  
7 Code as the commitment offense alone. We have to look at the  
8 depth of what's happened here. Maybe it was a shoplifting, and  
9 that ended up as a burglary, and they have some other prior  
10 convictions, and that's what caused them to come to the Youth  
11 Authority for burglary.

12 The next ward coming in could be involved in a  
13 burglary of a bank, or something. It could be a severe --

14 CHAIRMAN BURTON: Armed robbery? Burglary of a  
15 bank?

16 MR. BRACKETT: Well, they could break into a bank  
17 at night when it's otherwise closed, or a major business, a  
18 jewelry store. Much more sophistication involved. They may  
19 show gang involvement. They may show that they're doing it for  
20 feeding a drug habit.

21 That person's going to demand more programming  
22 than the youth that's committed to us for a string of relatively  
23 minor offenses, and then finally got a burglary for a  
24 premeditated shoplifting.

25 So, we will look at the specifics of each case to  
26 decide what is best for them.

27 CHAIRMAN BURTON: Senator Johnson.

28 SENATOR JOHNSON: No questions.

1 CHAIRMAN BURTON: Senator Karnette.

2 SENATOR KARNETTE: You mentioned drug treatment,  
3 but now what about those identified as needing mental health?  
4 How do you determine --

5 CHAIRMAN BURTON: Excuse me. Can we help you,  
6 sir?

7 SECRETARY PRESLEY: Just if you have any  
8 questions.

9 SENATOR KARNETTE: I'm interested in the ones  
10 that have mental health needs. Can you separate those, and what  
11 happens to those that really need mental health treatment?

12 MR. BRACKETT: That's one of the issues we do  
13 look at in intake.

14 If we find that they need mental health  
15 evaluation, it's done by staff. We can Board-order subsequent  
16 treatment summaries at subsequent meetings or hearings that we  
17 hold so we can better determine their progress in that regard.

18 There are onsite facilities, depending upon the  
19 institution that we direct them to, to handle those that have  
20 more severe mental health problems than others.

21 SENATOR KARNETTE: What about mental retardation?  
22 We hear a lot about that.

23 MR. BRACKETT: We have special education  
24 programs, Special Ed., and they get much more intensified direct  
25 assistance in getting through their schooling needs. We  
26 certainly have a goal, several years, that, given the time when  
27 a ward comes to the Youth Authority, they will get a GED or a  
28 high school diploma before they leave. That's a goal that we



1 strive to attain.

2 And yet we find some in Special Ed. are unable to  
3 attain that, but that doesn't stop us from working as well as we  
4 can in preparing them for parole, and we encourage them to  
5 continue.

6 SENATOR KARNETTE: I know this has been asked a  
7 lot of times, but many of these young people cannot read very  
8 well. Do you feel like you have success with getting them to  
9 read? I know you can't make them; you actually can't make them.  
10 You can make them go to class.

11 MR. BRACKETT: We can only expose them to  
12 programming. We can't make them learn and absorb.

13 SENATOR KARNETTE: I understand that.

14 MR. BRACKETT: As a teacher, I'm sure you do.

15 And yet, it's been very gratifying for me, in  
16 this short year, to see that wherever there's a ward that wants  
17 to learn, if they're ready to learn, the Youth Authority is  
18 there to provide them the treatment that they may need, if it's  
19 Special Ed. treatment, customized treatment for their needs.  
20 Otherwise, if they don't have a special education problem, we  
21 have the programming for them.

22 We have some wards graduating with A.A. degrees  
23 while they're in the Youth Authority. There's educational  
24 opportunities there for them.

25 CHAIRMAN BURTON: Senator Knight.

26 SENATOR KNIGHT: I wanted to know if that's an  
27 Air Force jacket. If not, why not?

28 SECRETARY PRESLEY: It's Air Force, no question.

1 CHAIRMAN BURTON: He's old enough, it's Air  
2 Corps.

3 This question is for Secretary Presley. So  
4 basically in the CYA, the wards who need some program to benefit  
5 them in the rehabilitation -- whether it's literacy and  
6 education, whether it's if they're developmentally disabled, if  
7 they're mentally ill, if they have a substance abuse problem --  
8 those slots are available there as opposed to kind of a lack  
9 thereof in Corrections?

10 Corrections, I know that there's waiting lists  
11 for almost anything that helps rehabilitate somebody.

12 SECRETARY PRESLEY: That's one of the reasons I  
13 came up and wanted to clarify.

14 The drug treatment question, there are two  
15 programs. One's called the Informal Drug, and the other is  
16 Formal Drug. The Formal Drug treatment takes nine months.

17 And as far as I know, I think they ultimately get  
18 the treatment, but in many cases, it's delayed a considerable  
19 period of time.

20 CHAIRMAN BURTON: For what reason?

21 SECRETARY PRESLEY: The program slots are not  
22 available. And the tragedy to that really is that they end up  
23 having to serve longer than they would have otherwise had to  
24 serve, because they have to stay there until that drug treatment  
25 is completed before they can be released on parole.

26 CHAIRMAN BURTON: That's stupid.

27 SECRETARY PRESLEY: Well, the answer to that is  
28 that you provide some more drug treatment slots.



1 CHAIRMAN BURTON: Well, the answer is, I never  
2 heard of a drug treatment program that was nine-month program  
3 myself. That's for openers.

4 And to keep somebody in because we have not  
5 provided the program that somebody thinks they ought to take for  
6 nine months, to keep them in longer than they should have, makes  
7 no sense at all.

8 SECRETARY PRESLEY: They're not being --

9 CHAIRMAN BURTON: Drug treatment programs, with  
10 all respect, are 21, 28 days for that, and then it's the rest of  
11 the life.

12 SECRETARY PRESLEY: These are the ones with very,  
13 very serious problems. That's why they're called formal.

14 CHAIRMAN BURTON: I know people with very serious  
15 problems, and they went through the 21-day basic treatment, and  
16 then the rest of the treatment's basically for the rest of your  
17 life.

18 I would like to know who is the one that figured  
19 out there's a nine-month drug treatment program necessary for  
20 anybody?

21 SECRETARY PRESLEY: It's been there many years.

22 CHAIRMAN BURTON: Okay, that makes it right.

23 SECRETARY PRESLEY: Somebody must have thought it  
24 out years ago.

25 CHAIRMAN BURTON: Well, they thought it out years  
26 ago that they put you in jail for two to twenty for two sales of  
27 one stick of marijuana, and that didn't make sense either.

28 Has anybody ever looked at that? One, it's a

1 waste of money. And two, keeping somebody in because they  
2 couldn't get into a program nine months, but there is no drug  
3 treatment program that I know anywhere in the country where the  
4 basic treatment, or the basic intervention start, whatever, is a  
5 nine-month deal.

6 I mean, I'm very aware of those programs. Then  
7 you have the after-care, which is basically an A.A. meeting, an  
8 N.A. meeting, whatever it might be.

9 Is that like a regulation? Is that like a  
10 statute? What is that?

11 SECRETARY PRESLEY: I don't know.

12 CHAIRMAN BURTON: Is that somebody's idea?

13 SECRETARY PRESLEY: Like I said, it's been there  
14 a long time.

15 Per your suggestion, I'll look into it.

16 SENATOR JOHNSON: Mr. Chairman, I think you raise  
17 a pretty legitimate point. If there is efficacy in a nine-month  
18 program, it ought to be pretty easy to bring forward the  
19 evidence that they have far greater success with kids over a  
20 nine-month period than some 21 or 28-day program. I personally  
21 tend to doubt that that's the case, but it seems to me that's a  
22 pretty easily discernible answer.

23 CHAIRMAN BURTON: I'd like to know whether it's  
24 regulation, when it started, because there's no drug treatment  
25 program that I'm aware of anywhere. In nine months they could  
26 win, or nine months they could lose. You have people that fall  
27 all the time.

28 I mean, I went through a program, 21 days. I

1 know other programs are 28 days. I mean that's the basic. Then  
2 it's every day for the rest of your life.

3 But nine months, and then keeping somebody in  
4 because the thing was full, because somebody a long time ago,  
5 when it was the Air Corps, decided that nine months was the deal  
6 because they didn't know anything then.

7 SECRETARY PRESLEY: I'll find out about the  
8 nine-month program.

9 CHAIRMAN BURTON: I'm going to pass that on also  
10 to the Budget Committee. I'd like to have somebody come back  
11 and tell me what they do with these guys for nine months.

12 SECRETARY PRESLEY: I'll find out.

13 SENATOR JOHNSON: It is interesting in view of  
14 the nominee's comments earlier about other programs that need  
15 additional financial support. If we're cycling wards through a  
16 nine-month drug rehabilitation program, and some of the basic  
17 education programs, and so on, Special Ed. or whatever it might  
18 be is being neglected that process. Make a lot of sense.

19 CHAIRMAN BURTON: Senator Knight.

20 SENATOR KNIGHT: Thank you, Mr. Chairman.

21 What's the length of time for the Betty Ford  
22 programs? Are they nine months?

23 CHAIRMAN BURTON: No way.

24 SENATOR KNIGHT: Reportedly, the reputation, they  
25 seem to be somewhat successful.

26 CHAIRMAN BURTON: Well, you know, they can work  
27 and may not. Whatever works for you may not work for me.

28 SENATOR KNIGHT: Yes, I understand that.

1 CHAIRMAN BURTON: But there's no program in the  
2 world that I've ever heard going beyond 30 days as far as the  
3 basic program.

4 SENATOR KNIGHT: There's some established length  
5 of time that gives you a pretty good percentage.

6 SENATOR JOHNSON: I'm hoping this hearing won't  
7 go beyond that.

8 I'd like to move --

9 CHAIRMAN BURTON: Well, how about witnesses in  
10 support?

11 SENATOR JOHNSON: Fine.

12 CHAIRMAN BURTON: Witnesses in opposition.

13 SENATOR JOHNSON: Fine.

14 CHAIRMAN BURTON: You might just drive me right  
15 to tears, Mr. Johnson.

16 SENATOR KARNETTE: And I'm going to cry over here  
17 if I don't get to say something.

18 The one thing about mental health, I know there's  
19 really not much time given to it. There's some, but it says in  
20 the notes here that the funding level is very low, and it's just  
21 seven hours of counseling per case per week.

22 If you really need help, is that an absolute  
23 rule, or can you concentrate it at the beginning, all the hours  
24 that a person's going to get? At the beginning, or does it have  
25 to be spread out?

26 MR. BRACKETT: We're in the process of reviewing  
27 that now, and especially based upon the budget increase for  
28 additional funding for mental health, we feel very confident



1 that we're going to be able to expand the program and enhance it  
2 better to the needs of the individual ward.

3 CHAIRMAN BURTON: I would like, and I don't know  
4 if you want to do it, Bob, but someone to give us the list of  
5 the various programs, and the time lengths that you're dealing  
6 with.

7 I don't want to beat a dead horse any more, but  
8 if we're blowing money by keeping people in longer in some drug  
9 program, it doesn't make sense. And we aren't giving mentally  
10 ill kids or kids who have real problem that take a longer  
11 time.

12 SECRETARY PRESLEY: I'll get you a list and an  
13 evaluation of each one.

14 CHAIRMAN BURTON: Appreciate that. Maybe you  
15 could find the year that that was adopted.

16 SECRETARY PRESLEY: Well, the Air Corps was '41;  
17 wasn't it.

18 [Laughter.]

19 CHAIRMAN BURTON: Witnesses in support, briefly.  
20 Thank you, Senator Kuehl.

21 MR. VOGTS: Mr. Chairman and Senators, my name  
22 is Jim Vogts, representing Los Angeles County Professional Peace  
23 Officers Association and the International Union of Police  
24 Associations.

25 I personally have known Steve Brackett for over  
26 twenty years. He's a man of principle, and we strongly support  
27 his confirmation.

28 Thank you, sir.

1 MR. FARIA: My name's Clancy Faria, and I'm the  
2 current President of Police Officers Research Association of  
3 California, PORAC.

4 I have worked with Steve for over twenty years in  
5 PORAC in many, many different areas. Whether he was a sergeant  
6 with the police department he worked for, or working for PORAC,  
7 or taking instruction as to what to do for PORAC, he has just  
8 been an outstanding, outstanding person. His credibility is  
9 unapproachable.

10 CHAIRMAN BURTON: Are you related to Jane Faria?

11 MR. FARIA: I am not. Didn't help.

12 CHAIRMAN BURTON: One mark against him.

13 [Laughter.]

14 MR. READ: Thank you, Mr. Chairman and Members.

15 It's been my pleasure as the advocate for PORAC  
16 to work with Steve for a number of years on issues. I'm hugely  
17 impressed with his integrity, his passion, and his compassion.  
18 Senator Kuehl and I and often talked about him when he wasn't  
19 around, how great he is, so I couldn't resist coming up and  
20 telling you.

21 Thank you.

22 CHAIRMAN BURTON: Witnesses in opposition?

23 Hearing none, moved by Senator Johnson. Call the roll.

24 SECRETARY WEBB: Senator Karnette.

25 SENATOR KARNETTE: Aye.

26 SECRETARY WEBB: Karnette Aye. Senator Knight.

27 SENATOR KNIGHT: Aye.

28 SECRETARY WEBB: Knight Aye. Senator Johnson.



1 SENATOR JOHNSON: Aye.

2 SECRETARY WEBB: Johnson Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Four to zero.

5 CHAIRMAN BURTON: Thank you. Congratulations,  
6 sir.

7 MR. BRACKETT: Thank you, sir.

8 CHAIRMAN BURTON: Lynne Coffin, State Public  
9 Defender, who has a bad case of laryngitis.

10 Do you want somebody to read your statement for  
11 you?

12 MS. COFFIN: I think I can do it.

13 CHAIRMAN BURTON: The question isn't whether or  
14 not you can read it. The question is whether or not we can hear  
15 it.

16 MS. COFFIN: Should I try?

17 CHAIRMAN BURTON: Sure.

18 MS. COFFIN: [Whispering] Good afternoon. I'm  
19 particularly pleased to be here this afternoon, as 2001 marks  
20 the 25th anniversary of the establishment of the State Public  
21 Defender's Office.

22 Our mission continues to be the representation of  
23 indigent defendants. We now represent approximately 100 men and  
24 women in California before the California Supreme Court.

25 SENATOR KNIGHT: This is too painful.

26 MS. COFFIN: It's not painful to me.

27 CHAIRMAN BURTON: I think that you have visited  
28 with the Members of the Committee.

1 Do Members have any questions you want to ask?

2 SENATOR KARNETTE: Move.

3 CHAIRMAN BURTON: Witnesses in support?

4 Witnesses in opposition?

5 Moved by Senator Karnette. Call the roll.

6 SECRETARY WEBB: Senator Karnette.

7 SENATOR KARNETTE: Aye.

8 SECRETARY WEBB: Karnette Aye. Senator Knight.

9 SENATOR KNIGHT: Aye.

10 SECRETARY WEBB: Knight Aye. Senator Johnson.

11 SENATOR JOHNSON: Aye.

12 SECRETARY WEBB: Johnson Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Four to zero.

15 SENATOR JOHNSON: I might recommend this.

16 [Laughter.]

17 CHAIRMAN BURTON: Congratulations.

18 Gary Ryneearson, Member of the State Board of  
19 Forestry and Fire Protection.

20 MR. RYNEARSON: Good afternoon, Chairman Burton,  
21 Members of the Committee.

22 My name is Gary Ryneearson. To give you some  
23 background, I was born and raised in Arcada, California, but  
24 also between that time -- and I received my formal education  
25 from Humboldt State University, I also lived in Alaska and  
26 British Columbia.

27 I'm a second generation forester. I graduated  
28 from Humboldt State in 1977 with a degree in forestry. I'm a

1 registered professional forester. I've been practicing forestry  
2 in this state for approximately twenty years.

3 I'm also very familiar with the activities of the  
4 State Board of Forestry and Fire Protection, as I'm the past  
5 President of the California Licensed Foresters Association, and  
6 attended many Board meetings and testified before the Board on  
7 many occasions.

8 I've also served on several Board of Forestry  
9 committees. Most recently I was the Chairman of the  
10 Professional Foresters Examining Committee, a position that I  
11 just recently resigned to focus on my appointment to the Board  
12 of Forestry. This is the committee that is charged with the  
13 licensing of foresters and recommended disciplinary action for  
14 foresters who violate the regulations.

15 In 1991, I served as the --

16 CHAIRMAN BURTON: Do you do timber harvesting  
17 plans, and stuff like that?

18 MR. RYNEARSON: Personally?

19 CHAIRMAN BURTON: No, I mean, does your board  
20 just license foresters, or do you have to do with timber  
21 harvesting?

22 MR. RYNEARSON: We do both, Senator. The  
23 Professional Foresters Examining Committee is charged with  
24 licensing of foresters.

25 CHAIRMAN BURTON: Right, but how about timber  
26 cutting practices?

27 MR. RYNEARSON: The PFEC, or the Professional  
28 Foresters Examining Committee, is a subcommittee of the Board.

1 The Board of Forestry oversees forest practices.

2 CHAIRMAN BURTON: I'm not quite being that  
3 obtuse, I don't think.

4 Isn't one of the duties of the Board regulating  
5 timber harvesting practices?

6 MR. RYNEARSON: Yes, yes.

7 CHAIRMAN BURTON: Which a lot of us think is  
8 really more important than regulating.

9 Senator Chesbro.

10 SENATOR CHESBRO: I'm a little tardy.

11 CHAIRMAN BURTON: The last witnesses was very  
12 smart and got laryngitis walking in the room.

13 [Laughter.]

14 SENATOR CHESBRO: Well, Mr. Chairman and Members,  
15 Gary Ryneearson is a friend of mine. He's a constituent, not  
16 just as a Senator, but when I was a County Supervisor I had the  
17 pleasure of representing him. I appointed him as a member of  
18 the Board of Supervisors to be my representative on the Humboldt  
19 County Forestry Advisory Committee.

20 He comes from the industry side. He and I don't  
21 always agree, but I will tell you that he's widely respected for  
22 his fairness, his open-mindedness, and his interest in solutions  
23 that actually try to solve both environmental problems and  
24 having a viable timber economy, which is, as they say in my  
25 district, a little bit like being for a leaning tree as opposed  
26 to a standing one or one that's laying down. But he makes that  
27 valiant effort, and it's not always a popular approach.

28 But I do think he's fair, open-minded, and I am



1 pleased to recommend him, and introduce him to you, and urge  
2 your support.

3 MR. RYNEARSON: Thank you, Senator Chesbro.

4 CHAIRMAN BURTON: I've got a couple questions. I  
5 think that Senator Chesbro's introduction sort of answered them.

6 Coming from the industry, and as we look at that  
7 Board, it's either people from the industry or people from the  
8 unions that work in the industry, so they all have an open mind.

9 Do you feel that you're going to be able to  
10 basically be steward for the people of the state on this,  
11 forgetting that we all bring our own bias and experience to it.

12 A concern that I've had, and not just with you,  
13 but with the people that the Governor sends up, like a couple of  
14 them, their membership relies on clear-cutting from here to hell  
15 and gone. I think it was back in 1999, you made a  
16 recommendation about how better to protect salmon and steelhead,  
17 and things like that. That's kind of important to what's going  
18 on in the state.

19 Do you feel you can still push for that type of  
20 program?

21 MR. RYNEARSON: Yes. In fact, since serving on  
22 the Board May of this year -- May of last year, the Board has  
23 implemented many of those recommendations. There's still more  
24 recommendations in that report to be considered before the  
25 Board, probably the key one of which is the development of a  
26 watershed assessment program at the sublevel, or the smaller  
27 sub-basin level. That is still on the Board's agenda, and I  
28 suspect it's going to be a key issue of discussion this year.

1           As to your question for open-mindedness, and to  
2 represent the constituency of all the landowners as well as the  
3 public, I feel I can do that in a fair manner, listen to the  
4 issues presented to the Board, both by the public and the  
5 agencies and landowners.

6           There are two other industrial representatives on  
7 the Board, both of whom represent large landowners. I feel my  
8 constituency is really with the small landowners, the small,  
9 nonindustrial landowners.

10           Our firm manages about 25,000 acres of  
11 nonindustrial land ownership, and those clients use a diversity  
12 of forest management. Several of them have nonindustrial timber  
13 management plans where strictly selection of silvaculture is  
14 used, meaning, any clear-cutting that's done is done in very  
15 small patches. Others use, continue to use, larger clear-cuts,  
16 which can be up to 20-30 acres in size.

17           There's a diversity of ownership, and that  
18 diversity of ownership, in and unto itself, develops a diversity  
19 of land management practices.

20           CHAIRMAN BURTON: Do you know if the Board's got  
21 any plans to address the clear-cutting issue in the Sierra  
22 Nevada?

23           MR. RYNEARSON: That issue has not come before  
24 the Board formally to my knowledge at this time.

25           CHAIRMAN BURTON: What's it take to get something  
26 before the Board? A citizen, a Board member, who?

27           MR. RYNEARSON: Either a petition, or somebody  
28 can stand up and raise the issue and say, "We would like the



1 Board to address this issue."

2 The watershed assessment --

3 CHAIRMAN BURTON: A petition would be like a  
4 letter from a group, a letter from an individual?

5 MR. RYNEARSON: Yes, a formal rule-making  
6 process, yes.

7 CHAIRMAN BURTON: Then the Board must put certain  
8 things on the agenda, or they've got the ability to ignore it?

9 MR. RYNEARSON: If the Board receives -- it's my  
10 understanding, if the Board receives a formal request or  
11 petition for rule-making, the Board must take that item up as an  
12 agendaed item.

13 Typically, it would go through one of the  
14 subcommittees first. It would be discussed at the subcommittee,  
15 then a report would come back to the general Board.

16 CHAIRMAN BURTON: And anything of like a  
17 significant concern to a group, they would use that process or  
18 procedure?

19 MR. RYNEARSON: Yes.

20 CHAIRMAN BURTON: As opposed to an individual may  
21 have a problem with something somewhere and may just stand up at  
22 a meeting and spout off?

23 MR. RYNEARSON: Typically, those types of  
24 concerns are brought up during the public comment period of the  
25 Board. The Board sets aside a period during every meeting for  
26 the public to address the Board on non-agendaed items.

27 CHAIRMAN BURTON: What, if anything, is the Board  
28 planning to do to address the decline of salmon in the North

1 Coast? Do they have plans to sunset the current interim rules  
2 on salmon protection, to extend those rules, to modify them  
3 either in a greater or probably lesser degree of protection?

4 MR. RYNEARSON: The Board currently still has  
5 before it a consideration for a watershed assessment program.  
6 It did not pass last year. It's very likely that that will  
7 become a critical discussion item before the Board in its near  
8 meetings.

9 Also, the Board is looking at how to coordinate  
10 that effort with the watershed -- development of watershed  
11 assessment with the current North Coast watershed assessment  
12 program that's been implemented by the Resources Agency in  
13 cooperation with the Regional Water Quality Control Boards.

14 CHAIRMAN BURTON: Would something happen before  
15 that thing sunsets at the end of the year?

16 MR. RYNEARSON: It's likely the Board is going to  
17 have to revisit both those issues prior to the end of the year.  
18 One as to whether or not to extend the interim rules, and two,  
19 the development of watershed assessment.

20 CHAIRMAN BURTON: Because not necessarily dealing  
21 with this, but when I met with some gentlemen of the industry,  
22 and that if the industry and the Board does not start taking  
23 hold of things, they could be facing a fairly divisive and  
24 expensive initiative, depending on who you listen to, especially  
25 dealing with, quote, "clear-cutting", unquote. That the polling  
26 shows that it could well pass overwhelmingly, and surprisingly  
27 in areas where part of the economy, I guess, lives on cutting  
28 down trees.

1 I think it's very important for people like  
2 yourself, who come from the industry but appear to be, in the  
3 words of Senator Chesbro also, kind of enlightened on the  
4 subject. If the Board does not act in some kind of prudent way,  
5 that we're going to be faced with something that a lot of people  
6 aren't necessarily interested in seeing.

7 I know that Wes would like to see some good  
8 initiative like that after he's termed out.

9 Anyway, I've told that to Red Emerson and some of  
10 the other people. You know, Red's Red, and he was trying to get  
11 some more acres and get ahead of Ted Turner in private  
12 ownership.

13 But I think it's a very serious problem and a  
14 serious concern, and not necessarily the whacky, shall we say,  
15 enviros, but some mainstream environmental movement is focused  
16 on this. I think the Board may have to protect the industry  
17 from some of its baser points of view.

18 Senator Johnson.

19 SENATOR JOHNSON: No questions.

20 CHAIRMAN BURTON: Senator Karnette. Senator  
21 Knight.

22 Do you have any family here at all?

23 MR. RYNEARSON: No, I didn't think it was fair to  
24 subject a committee to my seven-year-old.

25 CHAIRMAN BURTON: Witnesses in support?

26 MR. PAWLICKI: Thank you. Mark Pawlicki, Simpson  
27 Timber Company.

28 We're strongly in support of Mr. Rynearson. Find

1 him to be of the highest integrity. We've used his services in  
2 the past, and he has technical skills, knowledge, background.  
3 I've known his father before him, who was also a professional  
4 forester. We think he would be an excellent appointment to the  
5 Board.

6 Thank you.

7 CHAIRMAN BURTON: Do they still have the  
8 Fraternal Independent Order of Foresters?

9 MR. RYNEARSON: The old Who-Who Club?

10 CHAIRMAN BURTON: I don't know what it was, but  
11 it's the Independent Order of Foresters.

12 MR. RYNEARSON: It's not as prevalent as it used  
13 to be, but yes.

14 MR. RENTZ: Mark Rentz, California Forestry  
15 Association.

16 We, too, support the nomination of Mr. Ryneearson.  
17 As Mr. Ryneearson pointed out earlier, he brings forward the  
18 experience and the knowledge of the small landowner. We think  
19 that's an important ingredient for an industry representative at  
20 the Board.

21 Thank you, sir.

22 MR. CARLESON: I'm Eric Carleson with the  
23 California Licensed Foresters Association. Gary's been a member  
24 of the Association for almost twenty years.

25 Our members include foresters who work for the  
26 state, for industry, for small landowners, and I strongly  
27 support Gary on it basis of his expertise and impartiality.

28 MR. RATE: Alex Rate with Sierra Club. We're not



1 here opposing Mr. Ryneearson.

2 Rather, we just want to articulate some quick  
3 concerns with the direction that the Board of Forestry is going.  
4 Specifically, you asked some questions that I felt like need to  
5 be fleshed out a little bit more.

6 As you know, the structure of the Board is such  
7 that three seats are reserved for the industry, one for a range  
8 land rep, and five for the public. The structure of the Board  
9 is such that it's very important that the Governor make good  
10 appointments to each seat. Obviously, Mr. Ryneearson represents  
11 industry interests, specifically some of the smaller landowners.

12 On that note, we do not oppose the fact of his  
13 confirmation, but we do have concerns that the Board has yet to  
14 signal the direction that it's going in terms of advancing  
15 protections for coho on the North Coast, which continue to  
16 decline, as well as to address the clear-cutting issue that has  
17 exploded throughout the Sierra Nevada in the last year.

18 Thank you.

19 CHAIRMAN BURTON: Any other witnesses?

20 Moved by Senator Johnson.

21 I would, just to the witnesses of the industry, I  
22 hope you heard what I told Mr. Ryneearson. If the industry  
23 doesn't shape up, they're going to have an initiative that  
24 they're going to all have to move down to the rain forests to  
25 cut down trees. Sell them to McDonald's, I guess.

26 Moved by Senator Johnson.

27 SECRETARY WEBB: Senator Karnette.

28 SENATOR KARNETTE: Aye.

1 SECRETARY WEBB: Karnette Aye. Senator Knight.

2 SENATOR KNIGHT: Aye.

3 SECRETARY WEBB: Knight Aye. Senator Johnson.

4 SENATOR JOHNSON: Aye.

5 SECRETARY WEBB: Johnson Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Four to zero.

8 CHAIRMAN BURTON: Congratulations.

9 MR. RYNEARSON: Thank you.

10 [Thereupon this portion of the  
11 Senate Rules Committee hearing was  
12 terminated at approximately 2:20 P.M.]

13 --ooOoo--  
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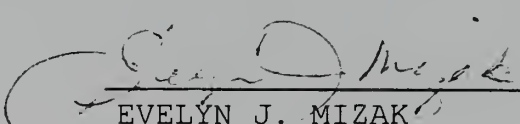
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